



Edited by
K. R. Shyam Sundar

Globalization, Labour Market Institutions, Processes and Policies in India

Essays in Honour
of Lalit K. Deshpande

Foreword by K. P. Kannan

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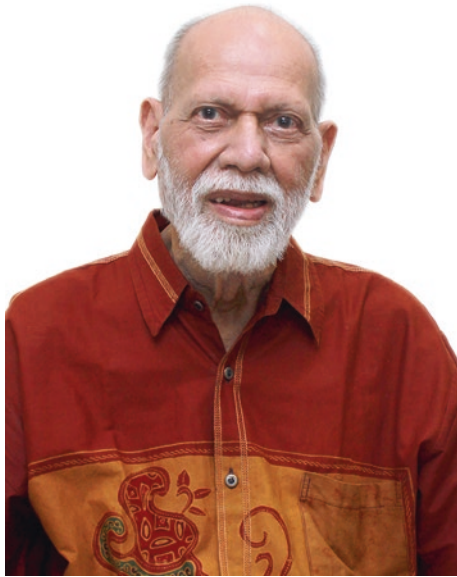
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*Dedicated
with
Love, Admiration and in Gratitude*



PROFILE OF PROFESSOR LALIT DESHPANDE¹

ACADEMIC QUALIFICATIONS AND AFFILIATIONS

1. BA Economics, Elphinstone College, University of Bombay, 1951–55
2. MA Economics, Department of Economics, University of Bombay, 1955–57
3. PhD Economics, Ford Foundation Fellowship, Department of Economics, University of Bombay, 1957–64
4. Post-Doctoral Research Fellowship, Stanford University, United States of America, 1965–66
5. Reader in Labour Economics, Department of Economics, University of Bombay, 1966–78
6. Visiting Fellow, Queen Elizabeth House, Oxford University, 1970–71
7. Professor of Development Economics, Department of Economics, University of Bombay, 1978–93
8. Director, Department of Economics, University of Bombay, 1992–93
9. Supervised the doctoral dissertations of over ten research scholars at Department of Economics, Bombay University

MEMBERSHIP OF BOARDS

1. Member, Editorial Board, *Indian Economic Journal*, 1979–2013

¹Prepared by Arnav Deshpande, grandson of Professor Lalit K Deshpande and Dr Sudha Deshpande, wife of Professor Lalit K Deshpande, retired as reader, Department of Economics, Mumbai University, in consultation with Professor Lalit K Deshpande.

2. Editor, *Indian Journal of Labor Economics*, 1985–90
3. Member, Editorial Board, *Indian Journal of Labour Economics*, 1979–81, 1989, 1991–2006, 2010–13
4. Member of Services Board, Reserve Bank of India, 1995–2000
5. Chairman, Study Group on Labour Statistics, Ministry of Labour, Government of India, 1999
6. Member of Board of Management, Indira Gandhi Institute of Development Research (IGIDR), Mumbai, 1996–2006
7. Member, Management Board, Gokhale Institute of Politics and Economics, Pune
8. Member of Rest of Maharashtra Statutory Development Board (Urvarit Maharashtra Vikas Mandal), Department of Planning, Government of Maharashtra

BOOKS, BOOK CHAPTERS AND EDITED VOLUMES

1. Sandesara, J.C., Deshpande, L.K. (Eds.) (1970). *Wage Policy and Wage Determination in India*, Bombay: University of Bombay
2. Deshpande, L.K. (1970). “Competition and Labour Markets in India”. In: J.C. Sandesara, L.K. Deshpande. (Eds.). *Wage Policy and Wage Determination in India*, Bombay: University of Bombay
3. Deshpande, L.K., P.R. Brahmananda, and E.A.G. Robinson (Eds.) (1983). *Employment Policy in a Developing Economy, Vol. 1 & 2*. London: Macmillan Press
4. Deshpande, L.K. (1983). “Urban Labour Markets: Problems and Policies”. In: L.K. Deshpande, P.R. Brahmananda, and E.A.G. Robinson (Eds.), *Employment Policy in a Developing Economy, Volume 1*, London: Macmillan Press
5. Deshpande, L.K. (1983). “Does Output-growth Necessarily Imply Employment-growth?” In: L.K. Deshpande, P.R. Brahmananda, and E.A.G. Robinson (Eds.), *Employment Policy in a Developing Economy, Volume 2*, London: Macmillan Press
6. Deshpande, L.K. (1985). *Segmentation of Labour Market: A Case Study of Bombay*. Hyderabad: Orient Longman Limited
7. Deshpande, L.K. (1992). “Institutional Interventions in the Labour market in Bombay’s Manufacturing Sector”. In: T.S. Papola, and Gerry Rodgers, (Eds.) *Labour Institutions and Economic Development in India*. Geneva: International Labour Organization (International Institute for Labour Studies)

8. Deshpande, L.K. (1993). "Economic Development and Labour Market Interface in India" In: ed. T. S. Papola, P. P Ghosh, and Alakh N Sharma (Eds.) *Labour Employment and Industrial Relations in India*, Patna: Indian Society of Labour Economics. Delhi: B R Publishing Corporation
9. Deshpande, L.K. (1994). "Economic Liberalization and Labour in India". In: L.K Deshpande and Gerry Rodgers (Eds.) *The Indian Labour Market and Economic Structural Change*. New Delhi: Indian Society of Labour Economics and B.R. Publishing Corporation
10. Deshpande, L.K. and Gerry Rodgers (Eds.) (1994). *The Indian Labour Market and Economic Structural Change*. New Delhi: Indian Society of Labour Economics and B.R. Publishing Corporation
11. Deshpande, Sudha, Guy Standing, and L.K. Deshpande (1998). *Labour Flexibility in a Third World Metropolis: A Case Study of Bombay*. New Delhi: Commonwealth Publishers
12. Deshpande, L.K, Sudha Deshpande (1999). *Amsterdam through the Gateway of India*. Amsterdam Study Centre for the Metropolitan Environment
13. Deshpande, L.K, Alakh N Sharma, Anup K Karan and Sandip Sarkar (2004). *Liberalisation and Labour: Labour Flexibility in Indian Manufacturing*. New Delhi: Institute for Human Development
14. Deshpande, L.K. and A.K. Satpathy (2008). "Challenge of Full Productive and Decent Employment in South Asia". In: Moner Alam, Armando Barrientos (Eds.), *Demographics, Employment and Old Age Security: Emerging Challenges in South Asia*. Delhi: Macmillan Publishers

PUBLICATIONS (JOURNALS AND WORKING PAPERS)

1. Deshpande, L.K. (1963). "Planning for Full Employment". *Bombay Labour Journal*, Vol. 3
2. Deshpande, L.K. and Sudha Deshpande (1985). "1981 Census and Structure of Employment". *Economic and Political Weekly*, Vol. 20, No. 22
3. Deshpande, L.K. (1979). "Wage Structure". *Indian Journal of Labour Economics*, Vol. 22, No. 1 and 2
4. Deshpande, L.K. (1982). "Economic Framework and Resolution of Industrial Conflict". *Cochin University Law Review*, Vol. 9, 316-322

5. Deshpande, L.K. (1988). *Flexibility in the Bombay Labour Market*. World Employment Programme Working Paper No. 24, International Labour Organization, Geneva
6. Deshpande, L.K. and Sudha Deshpande (1989). *Recent Developments in Bombay Labour Market-A Review*. Department of Economics, University of Bombay (mimeograph)
7. Deshpande L.K., (1990). "Economic Development and Labour Market Interface in India". *Indian Journal of Labour Economics*, Vol. 1, No. 1
8. Deshpande, Sudha, L.K. Deshpande. (1990). *Mobility in Bombay's Manufacturing Sector*. Asian Regional Team for Employment Promotion Working Paper, International Labour Organization
9. Deshpande, Sudha and L.K. Deshpande (1991). *Problems of Urbanisation and Growth of Large Cities in Developing Countries: A Case Study of Bombay*. World Employment Programme Working Paper No. 177, International Labour Organization, Geneva
10. Deshpande, L.K. and Sudha Deshpande (1992). *Segmentation and Structural Adjustment*. Paper presentation at Seminar on Manpower and Employment Implications of Restructuring at Institute of Applied Manpower Research, New Delhi
11. Deshpande, L.K. (1992). "Economic Liberalization and Labour". *The Indian Journal of Labour Economics*, Vol. 35, No. 4
12. Deshpande, Sudha and L.K. Deshpande (1992). "New Economic Policy and Female Employment". *Economic and Political Weekly*, Vol. 27, No. 41, 2248-2252
13. Deshpande, L.K., Sudha Deshpande and K.R. Shyam Sundar (1992). "New Economic Policies and Labour Sector", *Indian Economic Journal*, Vol. 39, No. 3
14. Deshpande, Sudha and L.K. Deshpande (1993). "Employment Generation in Maharashtra 1981-1991: District Level Analysis". *Indian Journal of Labour Economics*, Vol. 36, No. 4
15. Deshpande, Sudha, Deshpande, L.K., (1994). "Bombay Labour Flexibility Survey: A Micro Level Contribution". *Indian Journal of Labour Economics*, Vol. 37, No. 4
16. Rizwan Islam, L.K. Deshpande (1995). "Transfer, Adoption and Diffusion of Technology for Small and Cottage Industries". *Indian Journal of Labour Economics*, Vol. 38, No. 1
17. Deshpande, L.K. (1996). "Impact of Liberalisation on Labour Market in Industrial Relations in India". *Indian Journal of Labour Economics*, Vol. 39, No. 3

18. Deshpande, Sudha, L.K. Deshpande (1997). "Gender-based Discrimination in the Urban Labour Market in India". *Indian Journal of Labour Economics*, Vol. 40, No. 3
19. Deshpande, Sudha, Deshpande, L.K. (1998). "Impact of Liberalisation on Labour Market in India: What Do Facts from NSSO's 50th Round Show?". *Economic and Political Weekly*, Vol. 33, No. 22, L31-L39
20. Deshpande, L.K. (1998). "Migration in Bihar". *Economic and Political Weekly*, Vol. 33, No. 14
21. Deshpande, Sudha, L.K. Deshpande (1998). "Impact of Liberalization on Work, Worklessness and Earnings in Mumbai". *Urban India*, Vol. 18, No. 1
22. Deshpande, L.K. (1999). "Labor Standards and Structural Adjustment". *Indian Journal of Labor Economics*, Vol. 42, No. 1
23. Deshpande, L.K. (2001). "Labour Flexibility in India". *Indian Journal of Labour Economics*, Vol. 44, No. 3
24. Deshpande, Sudha, L.K. Deshpande (2003). "Changing Employment Structure in Large states of India: What do the NSSO Show?". *Indian Journal of Labour Economics*, Vol. 46, No. 4
25. Deshpande, L.K., (2004). "ILO, Key Indicators of the Labour Market". *Indian Journal of Labour Economics*, Vol. 47, No. 3
26. Deshpande, L.K, A.K. Satpathy, and Sudha Deshpande. (2007). "Personal Income Distribution and Heterogeneity of Labour Markets in India". *Indian Journal of Labour Economics*, Vol. 50, No. 4
27. Deshpande, L.K. (2008). "'NCEUS' Indian Gospel of Decent Work". *Indian Journal of Labour Economics*, Vol. 51, No. 2

REVIEW ARTICLES

1. Deshpande, L.K. (2000). "A Little Embarrassment of Sociological Riches: Studies into the Worlds of Indian Industrial Labour". *Journal of Indian School of Political Economy*, Vol. 12, No. 2. (Review of: Parry, Jonathan P., Jan Breman, Kann Kapadia, ed. 'The Worlds of Indian Industrial Labour', Sage Publication, New Delhi)
2. Deshpande L.K., (2002). "Global Labour Flexibility". *Indian Journal of Labour Economics*, Vol. 45, No. 2. (Review of: Guy Standing (1999) 'Global Labour Flexibility: Seeking Distributive Justice'. ILO, Palgrave Macmillan, UK)

3. Deshpande, L.K., (2004). “Jobs and Incomes in a Globalizing World”. *Indian Journal of Labour Economics*, Vol. 47, No. 1 Ajit K Ghose, ‘Jobs and Incomes in a Globalizing World’, International Institute of Labour Studies, ILO, Geneva (Book Review)
4. Deshpande, L.K. (2007). “Thank you, Professor Sen”. *Indian Journal of Human Development*, Vol. 1, No. 2. (Review of: Amartya Sen (2006) ‘Argumentative Indian’. Penguin)

AWARDS AND HONOURS

1. President, 31st Annual Conference of Indian Society of Labour Economics, Bangalore University, 1989
2. Tata Iron and Steel Company (TISCO) Endowment Chair, Tata Institute of Social Sciences, Mumbai, 1994–95
3. Honorary Fellow, Indian School of Political Economy—Pune, 2003–18
4. National Seminar on ‘Globalization, Labour Markets and Employment Relations in India’ organized in honour of L.K. Deshpande, jointly by Institute for Human Development and Indian Society of Labour Economics, at the Indian Council of Social Science and Research (ICSSR) Seminar Hall, Vidyanagari Campus, Mumbai University, 11–12 July 2012
5. ‘Contemporary Reforms of Labour Market and Industrial Relations System in India’ K R Shyam Sundar (ed.), New Delhi: Academic Foundation, released in honour of L K Deshpande on March 4, 2018 at the Mumbai School of Economics and Public Policy, Mumbai University, Mumbai
6. Visiting Professor, Institute for Human Development, New Delhi, 1998–2013
7. Felicitated with a Gold Medal by Brihan Mumbai Municipal Corporation for initiating ‘Bombay First’, a think tank with the objective of helping Bombay become a financial hub for Southeast Asia

INVITED LECTURES

1. First Kunda Datar Memorial Lecture (1983). Segmentation of Labour Market: A Case Study of Bombay. Gokhale Institute of Politics and Economics, Pune

2. First S.D. Punekar Memorial Lecture (1985). Role of Trade Unions in India. Tata Institute of Social Sciences, Mumbai
3. Fourth V.V. Giri Memorial Lecture (2001). Labour Flexibility in India. Giri Institute of Development Studies, Lucknow

PROJECTS

1. *Bombay Labour Market*, project funded by the World Bank, 1979
2. *A Study of Textile Workers on Strike in Bombay*, Centre for the Study for Social Change, Bombay, 1983
3. *Flexibility in the Bombay Labour Market*, project funded by International Labour Organization, Geneva, 1988
4. *Recent Developments in Bombay Labour Market-A Review*, (with Sudha Deshpande), project funded by the World Bank Office, New Delhi, 1989
5. *Migration to Ho Chi Minh City*, project funded by ILO regional office, Bangkok, 1989–1992
6. *Labour Mobility in Bombay's Manufacturing Sector* (with Sudha Deshpande), project funded by ILO Asian Regional Team for Employment Promotion (ARTEP), New Delhi, 1990
7. *Economic Reforms, Industrial Relations and Labour Market Reforms in India* (with Sudha Deshpande), report prepared for South Asia Multi-Disciplinary Advisory Team, International Labour Office, New Delhi, 1994
8. *Socio-Economic Survey of Greater Bombay* prepared for the Brihan Mumbai Municipal Corporation (BMC), 1993–97
9. Prepared a memorandum on behalf of Brihan Mumbai Municipal Corporation (BMC) to be presented to 10th Finance Commission, 1995–2000
10. *Labour Process Flexibility: Evidence from the Bombay Labour Flexibility Survey*, paper prepared for technical meeting on 'Enterprise Restructuring and Labour Markets', Turin Centre, International Labour Organization, 1995
11. *Wage Flexibility: Evidence from the Bombay Labour Flexibility Survey*, paper prepared for technical meeting on 'Enterprise Restructuring and Labour Markets', Turin Centre, International Labour Organization, 1995

12. *Employment Implications of the Growth of the Financial Sector in Mumbai* (with Neeraj Hatekar), report prepared for Bombay City Policy Research Foundation, 1996
13. *District Employment and Labour Market Assessment: A Study of Cuttack District of Orissa, 2001–2002* (with A.K. Satpathy), project funded by International Labour Organization-South Asia Multidisciplinary Advisory Team (ILO-SAAT), 2003
14. *Informal Sector in India*, project coordinator at the Institute for Human Development, New Delhi, project funded by ILO
15. *Employment and Social Security for the Workers in the Unorganised Sector*, project coordinator at the Institute for Human Development, New Delhi (with Alakh N Sharma and Mario Rutten), project funded by Indo-Dutch Programme on Alternatives in Development (IDPAD)
16. *Economic Liberalisation and Labour Market Flexibility in India*, project coordinator (with Alakh N Sharma), project funded by the Ministry of Statistics and Programme Implementation, Government of India

DR LALIT DESHPANDE: A PERSONAL NOTE

I have known Dr L.K. Deshpande (Lalit to his friends) since the mid-1960s, when he was in his early 30s, and I was a somewhat impetuous youngster of 20 odd years. I have thus had the pleasure of being a close friend for more than five decades. Such a long span of friendship leads to a general expectation that one is ideally suited to afford a perspective on the other's life and personality, and this expectation can very often be difficult to fulfil. Nevertheless, I will try to make a modest effort in this direction.

Like many of his generation, Lalit had—what can best be described in Flaubert's catchphrase—a sentimental education. Lalit's attitude to life was thus, unsurprisingly, underpinned by three cardinal principles: a strong sense of nationalism (inspired by the sacrifices in the freedom movement that he must have witnessed as a child), a romantic idealism (*à la* Thoreau, Tolstoy and Gandhi) and an attraction towards socialist ideals (which, however, fell short of a full commitment to Marxist principles). The Nehruvian philosophy of democratic socialism and constitutional secularism accorded well with such an approach to economic and social problems. However, unlike several of his contemporaries for whom the decades of the 1970s and 1980s brought disillusion and disenchantment with the Nehruvian ideals, Lalit remained steadfast in his commitment to them, though in recent years this commitment, without weakening, has been tempered by a recognition that good economics is probably striking a right balance between the forces of the state and the market. Thus, whereas many of his fellow economists either veered strongly to the left or swerved impetuously to the right, Lalit (at least in his economic writings) always kept to the substantial middle ground.

For all of us who spent a large part of our lives in the Department of Economics (UDE), University of Mumbai,¹ the department was regarded not so much as a place of work but as a second home. Exciting intellectual work was done there; our professors were contributing actively to academic journals as well as to the making of policy. Professors Brahmananda, Lakdavala, Kanta Ranadive, Sandesara, Krishna and Ranganath Bharadwaj, Shiv Nath, Ashok Rudra and Vatsala Mukerjee lent an academic glamour to the south wing of the colonial edifice of the (old) Mumbai University. Lalit, Gerry D'Costa, I and Manohar Rao, being the younger staff, would have normally come lower in the batting order in any other university, considering the hierarchical order of things in those days. But as was the ethos of our UDE, we were treated with such overwhelming warmth and affection by our seniors that even though we were properly deferential, we never felt anything oppressive about the atmosphere in the UDE—just cordiality and camaraderie all around us.

Lalit's career as an academic flourished in this encouraging atmosphere. The subject of labour economics was undergoing a transformation at this stage. The old neoclassical marginal productivity theory of wages was giving way to a whole new spectrum of theories such as efficiency wages, near-rationality models, insider-outsider theory, staggered contracts and so on. However, all these theories had been explored in the context of cyclical unemployment in advanced countries. It was not clear how far they were relevant in the context of the kind of structural unemployment characterizing underdeveloped economies. Lalit set out on the ambitious task of bridging this lacuna in the Indian context, by studying in great detail the characteristics of the Bombay labour market. This massive study (though done in the 1970s) is even today regarded as a landmark study. Its importance derives from the fact that it not only brought out the segmented nature of the Indian labour market but investigated thoroughly the specific institutional factors influencing this fragmentation. All of Lalit's work on labour economics, unemployment and migration was strongly influenced by his liberal principles (which I have referred to earlier). He has always been broadly sympathetic to the idea of labour, not so much as a factor of production but as a source of societal value. This makes him deeply suspicious of some of the modern-day thinking on labour reforms, which regards unions as antithetical to national economic interests, and in the

¹Yes, I know the name has been changed recently to Mumbai School of Economics and Public Policy, but I prefer to stick to the earlier name for purely sentimental reasons.

guise of introducing flexibility in labour markets, it seeks to undermine the traditional safeguards of the labouring class in general. His work on migration is also similarly marked by a strong undercurrent of sympathy for the migrant as a human being, rather than as a work automaton.

Lalit was favoured by nature with a colourful persona. A strikingly tall figure, he carries himself, even at the age of 85, in a graceful and elegant manner. He was always a delightful raconteur entertaining us with stories (never malicious) about his senior colleagues and from his travels abroad. One of his memorable stories concerns his meeting with the legendary Sir Don Bradman. During a visit to Adelaide he just looked up Bradman's number in the directory and rang him up. A secretary fixed up an appointment for the next day morning. Lalit came armed with a bat (to collect the prized signature of the great man) and was received courteously by the then stockbroker, who enquired solicitously about contemporary cricketers like Merchant, Mankad, Naidu and Amarnath. And most importantly, Lalit did get the signature.

In the *Indian Economic Journal* room, presided over by the ace masters of sarcasm and irony, Anil Mashruwala and Vinny Shembawanekar, there was frequent good-natured ribbing. The people who entered the doors were of unequal birth and station, but they were all reduced to a common denominator of equality through the ironic jibes of Anil and Vinny—all egos of whatever lineage or dimension were decimated by their acerbic sword of wit. Lalit was a frequent target, but like all of us, he took it good naturedly, never losing his temper and always shaking it off with his stentorian laugh.

He was of an extremely generous spirit, going out of his way to help some of his students in financial difficulties. But his generosity did not stop there; it spilled over into other unsuspected avenues. When the university had advertised for the post of Professor of Quantitative Economics, I hesitated to apply, on account of me being too young. Somehow Lalit sensed my hesitation, asked me point-blank as to whether I had applied, and when I replied in the negative, he roundly chided me for my diffidence. Thanks to his advice, I applied and was awarded the post. The story is all the more appealing since his own application for a similar professorship was also coming up around the same time.

No account of Lalit would be complete without Sudha his wife and constant companion of nearly 60 years. His eyesight was impaired from birth with an inoperable condition, which became progressively worse with age. But Sudha was always by his side, cheerfully helping him to overcome

this very serious handicap to his research efforts. Sudha was a demographic expert, with considerable experience in the handling of large data sets. Indeed they formed an effective team, complementing each other's specialization and producing a steady stream of high-quality research in the economics of labour, migration, demographic change and employment patterns. In short, a lot of nationally (and internationally) useful output was generated by this unique family enterprise. It was a matter of pride for the UDE that the work of two of its faculty members was acknowledged by international organizations such as the World Bank and the ILO.

I must mention that apart from their deep interest in academics, Lalit and Sudha shared a common passion for music—as a matter of fact, Sudha was an accomplished singer whose songs were regularly broadcast on All India Radio in the 1950s and 1960s. Those of their friends, like me, who were invited for dinner at their place can bear testimony to another great talent of Sudha, her brilliant cooking, which made a dinner invitation to their place an occasion to look forward to with gastronomic anticipation.

The economics virus, so strong in Lalit and Sudha, somehow bypassed their two sons Abhay and Ashish (who have turned to physics and medicine, respectively, predictably achieving great success there). But viruses are not easily got rid-off. Their grandson, Arnab, it appears, has been struck and struck badly.

Let me conclude this brief personal note by conveying my heartiest felicitations to Lalit on all his achievements and on a life lived according to the best prescriptions of all the Scriptures in the world. I wish him and Sudha many more years of academic fulfilment, family bliss and, above all, radiant health.

Professor Emeritus
Former Director
Indira Gandhi Institute of Development
Research (IGIDR)
Chancellor, University of Manipur (Since 2011)
Member, Prime Minister's Economic Advisory
Council (PMEAC) (from 2013 to date)

Dr Dilip Nachane

PROFESSOR LALIT DESHPANDE: MY FATHER FIGURE!

I am aware, as are perhaps all those who have come in close contact with Professor Lalit K Deshpande (I shall call him as LK henceforth), that I cannot possibly do justice to the grandeur of his personality. But I will try my best! What strikes me as particularly significant is that I or anyone cannot possibly talk of LK without simultaneously mentioning Dr. Sudha Deshpande, his wife and his research collaborator and a fine academic. In fact, a perusal of the bio-profile of LK will show frequent mention of her name along with his. She has specialized in Demography, which inevitably has a major focus on Labour, and her ability to handle complex Census and the National Sample Survey Organization (NSSO) data makes her an able ally of LK in his research pursuits. Their collaborative research spans over four decades in several fields such as Industrial Relations (IR), Labour Economics and Urban Studies. It is a long, warm and worthy partnership in every sense. Knowing LK well for over four decades as I have, I can also add here that she has been a great support to him in all his endeavours, especially given his delightful and genuine forgetfulness, unlike say the “cultivated forgetfulness of Lord Emsworth!” Most who have known them would have been struck by their use of “WE” and the bond between them. I wish to acknowledge the kindness and affection shown to me and to my family members by them with a deep sense of gratitude. By the way, Sudha Deshpande excels in music and her culinary skills are well-known to those who have visited them.

LK exhibits a sensitive sense of humanism. There are a few instances I know of in this respect which I will relate here. In one of his explorations in Bombay (now Mumbai), he interacted with the police personnel, took

photographs with them and thoughtfully sent them copies of the photographs featuring them, a courtesy they were unused to. Needless to say they were greatly touched by this gesture. He treated a Nepali boy with courtesy and extended him a warm human touch (apart from generously tipping him); the boy was a worker in the Kalina Campus canteen and tirelessly and willingly traversed as often as was necessary the distance between the canteen and the Economics Department on the third floor of Ranade Bhavan (which at that time did not have the facility of lift operation) to deliver snacks and tea/coffee ordered by him. To be sure, the Nepali boy did not extend his “labour” to everyone who was willing to tip him or otherwise. LK engaged a differently abled person in one of his projects when the latter was not a popular choice amongst the academics in Mumbai. It is this human touch that endears him to all of us. At the same time, he did not tip a telephone worker who, continuing the “historic practice” emanating from the command economy regime, demanded “rewards for his statutory service” (repair of LK’s landline telephone connection in his house)!

LK’s is one of the broadest minds and warmest hearts I have known in person! He has been a deeply moral and a kind person. He abhors narrow outlooks and dogmatism and I know that he and Sudha Deshpande have been critical of any form of ideology (regional/linguistic/religious/ideological) that denies personal freedom. I sense in him a Lincolnian philosophy of religion and character. Though Abraham Lincoln was technically not a practising Christian, his philosophy could be best summed up as “malice towards none and with charity for all”, and as his private secretary John Nicolay observed, “Benevolence and forgiveness were the very basis of his character. His nature was deeply religious” (quoted in Smith 2009). To be sure, I am aware of the controversies that surround the religious beliefs and practices of Abraham Lincoln. I learnt quickly and early in life that a person could lead a good and value-based life without being technically and ritualistically religious. LK embraces all that is good in any system of belief. Will Durant’s maxim—be understanding of others and be severe on oneself—characterizes him well. What clearly stands out as perhaps the tallest virtue in him is that he did not chase “positions” or “projects” (money) and valued all along pursuit of knowledge as the only worthy cause. In fact, as I relate later, “projects” came to him in the natural course. He possesses a rare virtue of “power” to “dispossess” power arising from position, money, wealth, fame, etc.

LK has demonstrated a strong sense of independence in thought and action, and in many ways the conduct of his life as I have seen and known reflects a celebration of a profound sense of humanism, a warm sense of equanimity and an abiding respect for diversity. I once cited to him a verse rendered in the aphoristic style from *Tirukkural (Sacred Couplets)* by the Tamil poet-saint Thiruvalluvar (<https://www.britannica.com/biography/Tiruvalluvar>) from Tamil Nadu, “Who every good have killed, may yet destruction flee; Who ‘benefit’ has killed, that man shall ne’er ‘scape free!”—He who has killed every virtue may yet escape; there is no escape for him who has killed a benefit (Verse 110, Pope et al. 2002), and observed that ingratitude is a sin. He smiled with deep compassion and advised me to cultivate an understanding nature to accommodate such possible frailties in people. To be sure, he is as moral as he could be and displays a broad and a huge heart!

His contribution to my academic development is immense. LK has been one of the “father figures” in my intellectual life—I borrow the term “father figure” which was the title of an autobiographical work by Kingsley Martin, ex-editor of the *New Statesman*. I worked for my PhD under his supervision. I wanted to do desk-oriented research work but he observed that “field study” is an important methodological aspect of labour studies and insisted that I undertake field study, especially as I proposed to study strikes and trade unions. It is this *field study culture* that has stood me in good stead all these years. His knowledge of labour history was particularly strong and he inspired me to read quite a bit on British and American labour movements. He encouraged me to read as widely as possible, and the citations in my works from various disciplines surely owe much to the intellectual foundations in Labour Studies laid during my PhD tenure under his supervision. LK advised me to conduct extensive field studies and he cited the hard and good works done by many foreign scholars. Any (foreign) scholar who wished to study labour markets in India and especially relating to Bombay inevitably approached him.

I digress here a bit to talk about two important persons here who have played an important role in my intellectual progress, viz. my Professor during my post-graduation studies in Madras (now Chennai), Prof. K.P. Chellaswamy and late Mr. Ranganathan, then IAS officer (based then in Mumbai) whom I knew briefly during my PhD tenure in Mumbai. Though the few lines that follow below do not pertain to LK they will enable the readers to appreciate their collective role in shaping my intellectual progress during my formative years. I have not seen in the flesh

anyone who is as widely read as Mr. Rangnathan was. Quite tragically, he died prematurely in his late forties. But he pushed me hard, sometimes even violently, to read and critically analyse many classics and some great works in various fields like religion, philosophy and literature. Professor K.P. Chellaswamy, now in his late 1980s, still reads books voraciously and discusses ideas on the phone with me and sends me excerpts from classics for my attention and further reading—his memory power and articulation remain as powerful now as they were during my student days; he continues to enthrall me with his intellect now as he did then. These men and their vast reading, their articulation, their elegant and often majestic prose, their fantastic memory power and their limitless passion for knowledge pursued even under adverse conditions left an indelible impact on me. It is these people who by their very academic and intellectual pursuits have taught me more than what I could possibly learn in a classroom. These three are permanent father figures in my life! I owe every bit of whatever little I have achieved to them and my salutations are extended to them. All three exhorted me to read as widely as possible to understand Labour, as Labour Studies by its very nature involves the use of several disciplines like Economics, Sociology, Law and Political Science. Seen from this perspective, a narrow approach to the study of Labour Issues using a single discipline is thus inadvisable. I read as widely as possible, though it consumed a lot of time during my PhD tenure, which had its own costs.

Not many saw merit in me or in my “laboured academic works” though they were published in well-known research outlets such as the *Economic and Political Weekly (EPW)*, and the *Indian Journal of Labour Economics*. But LK did. His trust in my research abilities and unfailing and enduring support of my research pursuits gave me tremendous hope. He showed enormous patience with me during my PhD tenure and I am deeply grateful to him for that. He always found time for me for discussion of research issues or other matters during and after my PhD tenure. We discussed a wide range of subjects including not only IR and Labour Economics but others like philosophy, literature, cricket, music and food (he has a special taste and preference for South Indian cuisine). I must add here that we have even discussed personal issues concerning me and family. How kindly and warmly he indulges me! I must thank my undergraduate teacher Dr. Anantha Padmanabhan who facilitated my registration for my PhD course in the Department of Economics, Mumbai University, under LK.

LK is quite Western in terms of cherishing a broad outlook on various issues including teacher–student relationship. I confess I must have caused him inconvenience by some of my “typically conventional” acts. In fact,

on one occasion while introducing me to one of his former PhD students, he addressed me as his “friend”. On another occasion LK encouraged me to address him as Lalit! I find it quite difficult to address him so, though several ex-students of the department address him as Lalit. I guess this is not unusual in India.

LK would always advise me that the best way to go forward amidst all adversities is to write untiringly irrespective of how my research articles or my candidature to jobs in a couple of premier academic institutions in India “were received”. I am happy that I wrote and perhaps evolved as he desired. His support and kindness to me is inestimable. I sincerely hope I have justified his faith in my academic abilities—I say this because he has been regarded by many as a Great Teacher (see also the endorsements) and he deserves a Great Student. Indeed, I distinctly remember Professor John Harriss praising LK as a Great Teacher during our interactions after my presentation at the Indian Society of Labour Economics Conference (ISLE) held in Amritsar in 2002. I often feel *quite sincerely* that LK, being a Great Teacher, perhaps deserves a better student (in terms of academic calibre and position) who would have done greater justice to his teachership and made better contributions to the world of ideas in IR and Labour Economics than I have.

LK was gracious enough to write a preface to one of my books (in two volumes) which comprised my already-published research articles. I wish to mention here that one of his major works proved to be a foundation of a lasting good innings in my life. My review of his lead-authored book on labour flexibility (Deshpande et al. 2004) was published in *EPW* in 2004 (Shyam Sundar 2004) and later I wrote a review of labour flexibility debate in the same publication (Shyam Sundar 2005) which largely used his two studies (Deshpande et al. 1998, 2004). I am happy to mention here that these two articles especially made a huge difference in my research life in India. They impressed eminent academics like late Professor T.S. Papola, the late Professor C.S. Venkata Ratnam, the late Professor C.P. Thakur, Professor Alakh Sharma and Professor D.N. Reddy (to mention just a few). Professor T.S. Papola offered me two research projects on Labour Regulation and Professor C.S. Venkata Ratnam facilitated securing International Labour Office (ILO) projects on IR and Social Dialogue in India. From then on, my research life took a positive turn. “Labour Flexibility Debate” (Shyam Sundar 2005) is one of the oft-cited articles of mine.

As a critic, LK was justly harsh on inferior quality in a research work. I recall his severe criticism of a research work done by a foreign student on the Bombay textile strike, though it received some favourable reviews in some outlets. His critical observations on my drafts and ideas during my

PhD tenure and even later positively impacted my writings. LK wrote competently and tersely—Subbiah Kannappan (1996) makes this telling observation which captures LK’s language skills: “Lalit K Deshpande gives a very informative survey of urban labour market theory and research, including his own pioneering work on Bombay, *all remarkably compressed in too few pages*, which not only makes short shrift of simplistic models which have gained fame, but spells out the elements of needed analysis and research on labour market institutions” (emphasis added). He was kind without being unduly critical, accommodating without being indulgent, helpful without being indiscriminating, and supportive without being partisan.

LK was magnanimous. Mark Holmstrom was exploring suitable themes and spaces for his anthropological research work on labour in India and consulted LK. LK handed the Bombay labour market study tapes to Mark Holmstrom. Mark Holmstrom acknowledged in his book *Industry and Inequality: The Social Anthropology of Indian Labour* (1985): “My closest collaborator, and the one to whom I owe most of all, Lalit Deshpande... He showed me what to look for in my own fieldwork, criticized and discussed my ideas, and most *generously* allowed me not only to draw on his Bombay labour market study ... but also to make *my own tables*, using the filled-in questionnaires for that study. This book, and especially the chapter on labour markets, could not have been written without him” (Emphasis added). This is indeed unusual in the academic world. Generosity can flow only from security and goodness.

LK and Sudha Deshpande (the Deshpandes) have contributed significantly to the improvement of labour statistics in general and the National Sample Survey (NSS) statistics in particular in India. Until the mid-1990s or so, researchers had very limited access to the statistics collected under the NSS by the NSSO. LK strongly urged M.D. Asthana (the then Secretary, Department of Statistics and Programme Implementation, Government of India), who was keen on effecting improvements with respect to labour statistics, to make labour statistics, including the NSSO data, freely available through digital mechanisms. M.D. Asthana responded positively and promptly to this suggestion. As a result, now hundreds of researchers in India and abroad have easy and free/paid access to not only the NSSO data, but other data as well. Further, LK did a thorough analysis of the conceptual and procedural aspects of labour statistics in his capacity as the Chairperson of the Study Group on labour statistics constituted by the Ministry of Labour, Labour Bureau, in the early 2000s and made important recommendations to improve labour statistics.

The Deshpandes have long been associated with the ISLE and enriched the academic deliberations in its annual conferences—I particularly remember LK’s remarks in a panel discussion on labour statistics at the ISLE Conference which concentrated more on the substantive and normative issues involved in building and employing labour statistics than on the technical or procedural issues in it. His presidential address to the ILSE Conference makes very interesting reading, and I witnessed its creation as I was with him as he wrote it. The Chairperson of the panel discussion, Dr. L. D. Mishra, the then Secretary, Ministry of Labour, in his summing up of the proceedings particularly thanked LK for elevating the level of the discussion on the subject. LK provided the “academic face” of the ISLE. He adopted a *laissez faire* approach as a PhD Supervisor and it was up to me to grow up as a researcher. It is thus not surprising that it was Professor P.R. Brahmananda (the then Director of the University Department of Economics (UDE)), and not LK, who introduced me to the ISLE; in fact, Professor Brahmananda urged me to attend the ISLE Conference that was to be held at Mysore University in 1986 of which he was the President.

I would like to narrate an interesting anecdote relating to the Bombay Labour Market Flexibility Project. During his tenure at the ILO, Guy Standing pioneered studies on labour flexibility in several countries including India in the 1980s. Having read LK’s landmark study on labour market segmentation (see LK’s bio-profile above), he identified LK as being the best academic in India to conduct labour flexibility studies in the country. During his introductory conversations with LK on the proposed project on Labour Flexibility Study, Standing was said to have quoted extensively from LK’s aforementioned work. Professor John Harriss has also quoted extensively from this work in his article (Harriss 1989). Standing sent a telegram to LK conveying the contact details of his brief stay in Bombay and his keen desire to meet with him. In those non-email days, the telegraphic communication owing to some strange reasons could not reach LK. Standing almost lost hope of meeting with LK and was all set to leave Bombay. Somehow almost at the eleventh hour LK established contact with Standing. And thus began a productive and close association between them. Their study on labour flexibility in Bombay to date remains unreplicated, though desk-based macro-econometric studies on labour flexibility have gained disproportionate and even undue attention. I had the opportunity to work on a couple of projects on labour flexibility and they needless to say were hugely educative. LK has also collaborated with

several scholars, and the names Dr. Gerry Rodgers, Professor Alakh N Sharma and Professor Neeraj Hatekar quickly come to my mind.

The competitive labour market theory has been the dominant orthodoxy in Economics. However, this has been challenged in numerous ways. The neo-classical theory conceives the labour market to be perfectly competitive with its attendant features and outcomes. Segmented labour market (SLM) theory (an umbrella term for multiple theories) has been developed to explain some of the adverse outcomes in the labour market such as wage dispersion, unemployment, discrimination and in a larger sense unequal income distribution and the persistence of poverty in society. The SLM theory essentially argues that the labour market comprises several distinct segments—and is not unified as the neo-classical theory assumes—with different rules relating to wage determination (e.g. collective bargaining in one segment and unilateral in another) and employment policies (e.g. internal labour market process in one segment and competitive external labour market process in another). Further workers' mobility from one segment to another is rendered difficult, even impossible in some cases, due to a variety of reasons which include non-market social, political and cultural factors. Thus, the SLM theory brings into focus social, political, cultural and other factors having a bearing on the functioning of the labour market and the outcomes therein. Both in terms of theory and policy implications the SLM theory makes significant departures from the conventional neo-classical theory, though several researchers see commonalities between the two. During the 1970s the SLM theory dominated the debates and discussions on the labour market in Labour Economics. LK's study on "Bombay Labour Market" (Deshpande 1983) based on a massive sample of around 6000 workers in Bombay and a methodological strategy unique to Bombay (India) showed that segmentation in the urban labour market (in Bombay) did exist and that it originated from the original source of labour supply, namely the villages. Then, after a critical discussion of policy solutions offered by several perspectives, he advocated policies unique to the Indian context. This landmark study is the first study on SLM in India.

LK pioneered empirical study on labour flexibility in India in the second half of the 1980s when this theme and debate had not achieved the kind of prominence it did later in the mainstream debate spaces. Post-reforms, employers have stridently argued that firms constrained by restrictive labour laws and militant trade unions could not make changes (meaning reductions) in employment and its composition (e.g. permanent

and non-permanent workers) as necessitated by the developments in the product market, and demanded reforms of labour laws among others which would afford them primarily numerical and wage flexibilities. LK collaborated with other academics in two studies on labour flexibility. One study covered 300 firms in the manufacturing sector in Bombay (conducted by Sudha Deshpande, Guy Standing and Lalit Deshpande) and the other covered more than 1,300 firms across ten states and nine industries in the manufacturing sector in India (conducted by Lalit Deshpande, Alakh N. Sharma, Anup Karan and Sandip Sarkar). These two studies contested, on the basis of firm-level data, the arguments and policy recommendations of employers and pro-reform academics and agencies like the World Bank. The two studies in general showed that employers in the late 1980s and during the 1990s were able to change employment levels at will, and, more importantly, those firms that changed their levels of employment did so by raising the share of non-permanent workers despite the prevalence of a restrictive regulatory environment in India. They also largely rebutted the neo-classical stance on the role of labour institutions like trade unions.

It is a tragedy that LK's full Report on the Bombay Labour Market (funded by the World Bank) was not published by the World Bank, though a short monograph containing his lecture (the Kunda Datta Memorial Lecture) delivered at the Gokhale Institute of Politics and Economics, Pune, was published by it and Orient Longman in 1985. I hope the full Report of this important study will be published soon for the benefit of researchers and academics and that the ISLE will possibly sponsor this publication. Similarly, even though his Report on labour flexibility in Bombay (funded by the ILO) was ready in January 1993, the ILO did not publish it as a research paper for "reasons beyond the control" of the authors of the Report, and eventually due to the intervention by Guy Standing at the ILO and the dynamic initiative taken by Professor Alakh N. Sharma, it was published as a book by Commonwealth Publishers in New Delhi in 1998. It is quite strange and even bewildering that the two pioneering studies on the labour market in India were not published by reputed publishers and/or funding agencies and hence did not receive the global visibility they so richly deserved. However, these unhelpful developments and events did not diminish the glory of these studies as they caught the attention of numerous scholars all over the world, notwithstanding the absence of electronic transmission of them in real time, at least in India at that time.

The aforementioned two sets of studies constitute an organic whole in the development of ideas in Labour Economics and IR in India. In a sense, labour flexibility debate when seen in terms of labour market regulation is an extension of labour market segmentation as firms or workers are segmented on the basis of institutional (laws, trade unions, etc.) coverage. In a fundamental sense, these studies have challenged the competitive labour market paradigm by bringing out the segmented nature of the labour market on the one hand and the role of labour institutions in the labour market and in the larger society on the other. However, if I were to choose the best of LK's works it would be his chapter in the book (Deshpande 1992) edited by Professor T.S. Papola and Dr. Gerry Rodgers (1992)—I should mention here that this book is a gem and contains the best articles from the best scholars in the field of Labour Economics. It is a guide for researchers specializing in Labour Institutions. LK's chapter not only describes but also critically analyses the development and role of labour institutions in the IR system in Bombay.

The best underlying current in LK's academic writings is the absence of "priors". He has what I call a 'Bloomsburian' outlook and pursuit, that is, to be open to a wide range of perspectives and allow the data to speak for itself. Hence it is difficult to identify a constant and predictable line of thinking in his studies or in his arguments and presentations. LK and Sudha Deshpande (Deshpande and Deshpande 1998), in their analysis of the impact of economic liberalization on the labour market in India in the 1990s, essentially argued that the absence of credible data-based analyses led to unfounded fears and apprehensions with respect to the impact of liberalization on the labour market in the minds of the social actors (trade unions) and the critics of economic liberalization. In fact their analysis of NSSO's 50th Round of data showed that liberalization did not produce altogether negative outcomes in the labour market as was popularly, and even fashionably, believed. Their critical observations hold special relevance to the ongoing debate on the absence of government data on employment.

LK's critique of the Report of the National Commission on Enterprises in the Unorganized Sector (NCEUS), especially on the issue of minimum wages, shows that he would support a stance, however noble and potentially welfare-enhancing, if and only if it were grounded in (competitive) economic logic and pragmatism (Deshpande 2008). For example, the NCEUS recommended higher minimum wage because it comprised certain "add-ons" components to provide for healthcare and education

amongst others, and these were expected to enhance workers' capabilities. A higher minimum wage according to LK would have imposed stiff economic costs (burden) on micro and small firms. LK flayed the Commission for shifting the burden (task) of enhancing workers' capabilities on to the hapless and often inadequately equipped small firms rather than punishing the State for its failure to provide these public goods. Further, he argued that while human rights are surely moral rights, they can become legal rights only *if* they are backed by financial capacity and administrative feasibility, and hence he is against unscientific hiking of minimum wages. Following this logic, he also recommended that these rights should be implemented in a phased manner; hence he has no sympathy for those who make shrill demands for higher minimum wages, *here and now*.

At the same time, LK's studies on labour flexibility clearly repudiate the neoclassical and neo-liberal stance on the role of labour institutions. He has always held the view that trade unions constitute the 'swords of justice' in a highly polemical and exploitative economic system. In his study on labour flexibility in Bombay (1998) he noted on the *basis* of data the positive role of trade unions, namely their contribution to the dynamic efficiency of firms (by encouraging technological change), their ability to ensure employment security for the vulnerable (read casual) labour, and their role in preventing or preempting employment of flexible labour (unions were less likely to be found in firms employing a higher share of non-permanent workers). Furthermore, he lamented that "Unfortunately, such contributions of unions are rarely noticed" (Deshpande et al. 1998, p. 152). At the same time, in his classic study of labour institutions in the Bombay labour market (Deshpande 1992) he contested the macro-critique initiated by the neo-classical economists such as Lucas (1986) of labour institutions like the State (via labour legislation) and trade unions using two arguments: (a) even if these institutions had to be blamed for the adverse economic outcomes, these were *just two* of the several institutions/factors responsible for bad economic outcomes that Lucas notes; and (b) disaggregate analysis of the working of a labour institution, which is quite necessary to understand the dynamics of the working of labour institutions, for example trade unions, reveals the weaknesses of the broad macro-level generalizations (Deshpande 1992, pp. 87–88). Put simply, the micro-foundations of macro-critique are missing and hence the latter lacks authenticity and acceptability.

LK's pitch for micro-level analyses to test macro-level analyses is quite interesting, and much later Richard Freeman in 2005 (Freeman 2005)

offered this and experimental research as possible research methods to take forward the highly polemical debate on labour flexibility (which was his concern) and to escape from priors-based macro-econometric research work on it. At the same time, LK clearly recognized the conflicts *within* the trade union movement as the goals and methods adopted by different types of trade unions differed—for example, there could be conflict between the “insider-interest oriented” trade unions and the “encompassing” and outsider-oriented trade unions (Deshpande 1992, pp. 119–121). In passing, I should add here that LK held in high esteem trade union leaders like Bagaram Tulpule and Vasant Gupte. He once wondered aloud as to what the Webbs (Beatrice and Sydney), whose standards of evaluation of leaders and social and economic systems were stern, would have thought of many of the contemporary trade union leaders.

Coming back to the issue of minimum wages, LK’s argument is that these are often determined by aspirations and ideologies of “actors” in the IR system rather than by scientific evidence. His advice was that in the absence of definitive studies on the impact of minimum wages on employment—I dare say that this could be generalized for any debate in Labour Economics—academics should wait for the “jury’s verdict” lest the “ideologue” in the researcher sway her research conclusions and the policy recommendations. This stance clearly reflects his non-partisan attitude towards research and policy making, and at the same time hits at the “priors-led research”. But one can anticipate objections to this stance of his on the grounds that Labour is unarguably and inevitably a Political and Social Question and thus the role of ideology is inevitable. However, his advice assumes added importance as “priors-based” and “lawyering mind-set”-driven research has been flourishing in Labour Economics and IR (of which I have some knowledge) and have swayed the unwary governments in their design of labour market policies in the era of neo-liberal globalization (Freeman 2005). If I were to hazard a summary, however brief, of his academic beliefs, I would say that he values the vital role played by labour institutions, though stripped of their partisanship, and he would prescribe a Golden Balance between the State and the Market, as he does not see either of these on its own delivering social and economic progress.

Bertrand Russell (1956) in his sketch of the Webbs in his book *Portraits from Memory* gives a humane and worthy piece of advice for evaluating a person: “One should not demand of anybody all the things that add value to a human being. To have some of them is as much as should be demanded”. I am confident that the Deshpandes would handsomely pass

such a test proposed by Russell. I am quite aware of and a witness to the admiration and warmth that they have received from the academic community and others from the larger society (such as trade union leaders, employers' organizations' representatives and government officials), and the love and adoration showered upon them by their sons and their families. In every sense I am privileged to have met with LK and been close to him and his family members in my otherwise uneventful life. He is much more than a PhD supervisor to me and has a huge presence in my intellectual and emotional lives. I must add here that family members from my birth-side, especially my mother, hold him in high esteem and have enormous gratitude for his role in my academic life, and my wife Dr. V. Rama Kiran and my dear daughter K. Achintya have warm relations with him, Sudha Deshpande and their family members. It is with love, admiration and gratitude that I dedicate this book to him!

K. R. Shyam Sundar

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FOREWORD

I am delighted to write this Foreword to a book containing chapters in honour of Professor Lalit K Deshpande who was one of my teachers at the Department of Economics, University of Bombay (now Mumbai), during the early 1970s. Years later, I have had the fortune of interacting with him as a member of the Indian Society of Labour Economics in which he took active interest. Teaching of Labour Economics then was mostly confined to various theories of wage determination, collective bargaining and trade unionism as well as wage policies including minimum wages, social security and industrial relations. One cannot say that the importance of these topics has changed but they have certainly undergone transformations of a nature that was hardly anticipated.

In a developing country like that of India, it was expected that economic growth will expand the modern sector of the economy and bring about a parity in wages between the traditional and the modern sectors, which in turn assure a decent wage to the workers and enable a transition to a higher standard of life. That expectation was shattered with the ‘discovery’ of the informal sector. The realization that the persistence of low-income self-employment, low wages and unacceptable conditions of work and lack of social security of a majority of wage workers are the hallmarks of the informal sector undermined the confidence in a modern labour market system characterized by decent wages, collective bargaining, social security and a mechanism of industrial relations. Despite economic growth, the regime of labour market was anything but hopeful.

With the onset of neoliberal economic reforms that was imposed on one developing country after another by the Bretton Woods Institutions,

the dichotomy between informality and formality in employment became much more pronounced. In India, the National Commission for Enterprises in the Unorganised Sector (NCEUS) (2004–09) set up by the United Progressive Alliance government was tasked to study the problems of the unorganized sector and its workers and suggest solutions for their remedy. What the NCEUS found was much more complex than a simple dichotomy as between the informal and formal sectors in the economy. First of all, the economy was found to be divided into two types of enterprises in all sectors, that is, (a) those that are proprietary or partnership in nature but employing less than ten workers and (b) those that are incorporated with ten or more workers. Second, it was found that informality in employment required a separate definition other than employment in the informal sector. Thus, employment informality was defined as employment that carried no employment and/or social security provided by the employer. When such a definition was adopted, it was found that, in 2004, informal employment in the Indian economy constituted 92 per cent of all employment as against 82 per cent of employment in the informal sector. This evidence showed that a process of informalization of employment has been going on in the Indian economy. In fact the share of informal employment in the formal sector continued to increase such that the share of informal employment is greater than formal employment in the formal sector of the economy. The NCEUS reports also brought out that there is a strong social dimension to informality of employment, in that social groups lower down the hierarchical social system experienced higher incidence of informality as well as poverty and vulnerability. Therefore the poverty question was found to be inextricably linked with informality and low social group identity.

This volume has a number of chapters dealing with the variations in informal employment in both existing and emerging sectors of the Indian economy and a search for understanding its causes. The general impression one gets is that the onset of neoliberal globalization has certainly set in motion of a fundamental restructuring of labour market conditions that has led to the decline of the industrial relations system based on collective bargaining. Policies for wages and employment have also seen a steady decline. In the case of organized manufacturing in India, the share of contract workers has increased that has also added to the decline of trade union power. New labour strategies in well-organized old sectors such as plantations have also led to a weakening of trade unions as a result of neoliberal globalization.

To this one must also add the differential policy of the state itself in terms of treating its employees as workers and volunteers, the latter constituting another segment of informalized labour. When it comes to such an important function as collective care of preschool children through the Integrated Child Development Scheme (ICDS), its women functionaries numbering between three and four million are treated as ‘volunteers’ who are given an honorarium by the state for their services. So the struggles launched by this women workforce is not only for better wages and conditions of work but to get recognition as workers/employees of the state. But the neoliberal solution of the national state has been to talk in terms of withdrawal of the state and treating the service under ‘corporate social responsibility’ and/or shift to an alternative arrangement of public-private partnership that some would construe as a backdoor privatization.

Informal employment creation has also been the hallmark of the emerging sectors such as Information Technology (IT) and Information and Communication Technology (ICT). Here the issue may not be of low wages (although there is a significant lower layer of what is called ‘tech coolies’) but one of vulnerability in employment security. Given its strong linkage with global markets there are ups and downs in employment, leading to a system called ‘benching’. A new work arrangement has also emerged with further advances in IT and ICT. This is called ‘gig economy’. It has given rise to what is called ‘online markets’ for a variety of jobs where mediating platforms bring together a set of clients (demand side) with freelancing workers (supply side). Given the worldwide opportunities and the nature of work organization the national state could find it difficult, if not impossible, to set standards and regulatory mechanisms. Such new work arrangements also present formidable challenges to traditional trade unions of workers; in fact, they often find themselves irrelevant in such situations.

A recent development in the gig economy is the emergence of companies that offer platforms for aggregating and matching demand and supply of services involving millions of consumers and workers. Powerful examples are ride-hailing companies such as Uber (multinational), Ola (India) and Grab (Southeast Asia). Disputes have emerged on whether the cab drivers are workers of the company that has provided them with membership of their platforms for performing their work. The legal battles that are now going on in Western countries will have its repercussions in India too. Given the popularity of such services among consumers there has been an

expansion in services such as delivering food, books, etc. (e.g. Zomato, Swiggy, Amazon, Flipcart) and cleaning, repair and maintenance of electronic equipments (e.g. Urban Clap), etc.

In such a fast-changing scenario of technological and organizational changes in work, the transition from an informal to a formal economy seems riddled with greater barriers than before. It then calls for a 'social' solution to such foundational issues as employment and social security. That calls for national policies and programmes for employment generation and socialization of the cost of social security. Explicit employment policies for creating employment would, inter alia, facilitate the much-needed transition to a green economy. These two agendas would also call for appropriate fiscal policies.

All these call for new research for an informed debate and advocacy in policymaking. There is much in this book that will stimulate the need for new ideas in seeking alternatives.

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Dr K. P. Kannan

ACKNOWLEDGEMENTS

This book contains chapters dealing with various aspects and dynamics of the labour market and the industrial relations system in India. This quite massive enterprise would not have been possible without the unstinting cooperation I have been fortunate to have secured from a large number of contributors who are eminent academics. I thank each and every one of them for their commitment to delivering their chapters and to responding to my queries, clarifications and suggestions amidst their rather busy schedules and despite unforeseen handicaps, personal or social (Kerala floods). I am beholden to each of the contributors for their extraordinary cooperation in returning the proof-read soft copies of e-proofs of their respective chapters as quickly as they could amidst their busy schedule.

I sincerely and strongly believe that an edited book is as good as the quality of the contributions. The eminence of the contributors hugely helps in a brand-driven market system. This belief assumes strength, even credulity, given the fact that I am not as accomplished as many of the contributors to this book are. I am quite clear in my mind that they agreed to write their chapters for this book edited by me largely due to the respect that they have for LK (many know him or have read his works) and/or their strong commitment to contributing to the understanding of the dynamics of the world of work. Harraj Singh Sokhi, a research student in XLRI, has helped me in copyediting the manuscript and his contribution to the organized delivery of the manuscript to the publishers is much appreciated.

Professor Dilip Nachane, Professor Emeritus, Indira Gandhi Institute of Development and Research, Mumbai, and former Professor and ex-Director of UDE, Mumbai University, is a scholar of immense repute and has been associated with LK for over five decades. So, it is a double delight for me that he kindly agreed to write a personal note on LK and I cannot thank him adequately for his kind gesture. I am sure his chapter will be a revelation of sorts to the reader and it will make for merry reading. Professor K.P. Kannan, who was LK's student at the University Department of Economics (UDE), is a distinguished scholar in Development Economics and Labour Economics, and was a Full Member of the National Commission on Enterprises in the Unorganised Sector (NCEUS) from 2004 to 2009, has written a sensitive and comprehensive Foreword to this volume, for which I am grateful. I thank all the eminent persons who have given their endorsements of the book, which will surely further enhance its merit.

Arnav Deshpande, the grandson of LK (whose brilliance in Economics has been acknowledged by eminent economists like Professor Dilip Nachane even though he is currently pursuing his undergraduate education in Economics), has with the assistance of Dr. Sudha Deshpande compiled the academic biographical details of LK, and I am happy that he is associated with the book brought out in honour of his grandfather. I am thankful to them for their industrious work of compilation.

I thank my employer, XLRI, Xavier School of Management, Jamshedpur, for their financial support to enable me to tackle the logistics arising out of an edited book.

Finally, I must thank Sandeep Kaur, Assistant Editor, Business, Economics and Political Science Publishing, Palgrave Macmillan, India, for her patience, hard work, helpful suggestions and commitment to bringing out this book in fast track mode despite her multiple commitments. I must also thank the publishing team comprising Rachel Taenzler, Leoselvakumar Periyanyagam, Nancelene Franz and Atma Biswal for their remarkable sense of commitment to fast-tracking the publication and their kind cooperation. To sum up, all involved in the publication of this blessed book have very kindly and sensitively responded to my persistent pleas for fast-tracking all kinds of processes involved, from the time I started editing the entire manuscript until the print form. I have stayed blessed throughout this worthy enterprise.

By now it should become blatantly obvious to the reader that I as an editor have done precious little to add value in this enterprise!

I have edited another book in honour of LK, *Perspectives on Labour and Globalisation in India* (published by Palgrave Macmillan) and it contains contributions which not only critically analyse and even interrogate neo-liberal globalization using varieties of perspectives such as the Institutional, Marxian, Biblical, Dalit and Institutional-Empirical but also seek to provide alternatives to it. It should be seen as a companion volume to this book.

K. R. Shyam Sundar

Praise for *Globalization, Labour Market Institutions, Processes and Policies in India*

“An excellent compendium of studies, analysing the course and consequences of many unforeseen developments in India’s labour market during the post-independent era. They bring to light that an Industrial Relations System, as it evolved in India, failed to fulfil the expectations placed on it to guarantee secure income and dignified living conditions to all in the world of work. As events unfolded, the spirit of voluntarism and legal architecture of Industrial Relations, proved inadequate to secure the substantive and procedural rights of many industrial workers, notably those based in urban locales.

A severe demographic explosion, insufficient mobilization of investible resources, and pathetically low growth of employment in all crucial sectors of the economy have had far reaching consequences on income and livelihoods of people at the low end of labour markets. The segmented nature of markets and its adverse impact, manifested through a continuous deterioration of real earnings and working conditions, all attributed to factors outside the reach of policy makers, provided grist for the mill of Professor Lalit Deshpande, who in turn pioneered a prodigious amount of output in terms of analytical studies and advocacy campaigns, all aimed at improving livelihoods of the working poor in India.

The articles included in this volume (almost all of them) are torch-bearers of a great intellectual tradition set in motion by L.K. Deshpande where the central concern of scholars is to analyse and interpret structural changes in contemporary labour markets with a view to harnessing them for improved outcomes through a judicious mix of public policy interventions. They delve into an array of topics such as the rise of a gig economy, informality, contractual work, precarious jobs, gender disparities, and diminution of bargaining strength in most industries and occupations. They provide an insightful assessment of the means of action for correcting structural imbalances arising in the world of work.”

—Dr. A. V. Jose, *Former Senior Official, International Labour Organization, Geneva; Senior Consultant, Gulati Institute of Finance and Taxation, Thiruvananthapuram, Kerala*

“Impressive economic growth in India has not brought commensurate improvement in employment conditions. And India’s labour regulations and institutions are widely blamed for this apparent disconnect between growth and employment. The essays in this volume critically examine both of these propositions. They take a fresh view of the relevant facts and develop fresh perspectives. The volume is a

must-read for all those who are interested in understanding India's employment problem and a fitting tribute to Prof. Lalit Deshpande who pioneered research in these areas.”

—Prof. Ajit K Ghose, *Former Senior Economist, International Labour Organization, Geneva; Visiting Professor, The Institute for Human Development, New Delhi; National Fellow at the Indian Council of Social Science Research (ICSSR), New Delhi*

“Labour market institutions and processes have been a highly under researched topic in India. Professor L.K. Deshpande has been one of the scholars who pioneered research in this area. This edited volume in honour of Professor L.K. Deshpande by Dr. K.R. Shyam Sundar covers some important contemporary analytical and policy issues, particularly relating to informal employment and trade unions. It is an important contribution on this theme and will be of wide interest for the researchers, policy makers and other professionals.”

—Prof. Alakh N. Sharma, *Director, Institute for Human Development, Delhi; Editor, Indian Journal of Labour Economics*

“The Indian economy is both large (approximately 500 million workers) but also deeply segmented on numerous dimensions, including gender, caste, religion, geographical origin (rural and urban), and cultural and linguistic features. India is also characterized by a great deal of precarious work, not only in the informal sector (which accounts for over 90% of workers) but also in the formal sector, as the Indian state has been under considerable pressure to liberalize, privatize and globalize the economy. This book advances our understanding of precarious work in India through an impressive array of chapters that examine the segmentation of the Indian labour market as well as a wide range of other important issues related to precarious work in India. Some of the topics covered include: characteristics of the informal manufacturing sector in India; employment relations in the Indian IT industry; trade unions and workers' organizations; nonstandard employment and labour law; freelancers and the platform economy; and work in the automobile and construction industries. This valuable book is a welcome addition to the growing literature on precarious work.”

—Prof. Arne L. Kalleberg, *Kenan Distinguished Professor of Sociology, University of North Carolina at Chapel Hill, NC, USA*

“This book honouring Professor Lalit Deshpande as one of India's first labour economists provides a timely review of trends and patterns in labour, employment and productivity in India over the last two decades. In their sweep and depth, the essays are an apt tribute to a scholar whose range of interests has been vast and deep, someone who demonstrated the ability to focus on the detail while not losing sight of the big picture. A gentle, genial and warm person, one cannot think of

Lalit Deshpande without his companion and co-author Sudha, an equally dedicated scholar. I see these two volumes as an homage to their long-standing partnership and dedication to the cause of workers and their labour.”

—Prof. Ashwini Deshpande, *Full Professor, Department of Economics, Delhi School of Economics, University of Delhi*

“L.K. Deshpande has made a wide variety of contributions to labour studies in India over many decades. He greatly added to our understanding of the informal sector, in particular by measuring different dimensions of informality in an early study in Bombay, following this up later with research into labour market flexibility, in both cases carrying out and using innovative surveys. He has written extensively on labour institutions and industrial relations, and maintained a critical stance on neo-liberal globalization throughout his writings, along with the corresponding process of liberalization in India, stressing the importance of its adverse effects on workers. Like his contemporary T.S. Papola he has always believed that labour markets could not be understood without an understanding of the institutions on which they were based, and was highly critical of simplistic neo-classical models. So it is entirely fitting that Shyam Sundar has put together a collection of articles in his honour in this book. The articles, many of them written by well-known names in the field, carry on his critical perspectives in the analysis of diverse aspects of labour markets, including how they are being modified by new global economic and political forces, and the sorts of responses that are possible in labour policies and industrial relations. This is a book that anyone interested in labour studies in India will want to have on their shelves.”

—Dr. Gerry Rodgers, *Former Director, International Institute for Labour Studies, Geneva*

“This book is a must for anyone who wants to understand the Indian labour market and the factors determining the life conditions of Indian workers. It is novel by combining labour market theory with institutional economics and the economic analysis of law.”

—Prof. Hans-Bernd Schäfer, *Affiliate Professor, Bucerius Law School, University of Hamburg; Former Director, The Institute of Law and Economics, University of Hamburg; Former President of the European Association of Law & Economics from 2004–2007 Hamburg, Germany*

“This book is a treasure trove of rich empirical studies by leading scholars on labour institutions, and on trends in India’s labour markets, breaking new ground or setting new benchmarks. It is a fitting tribute to the lifelong scholarship of Lalit Deshpande.”

—Prof. John Harriss, *Professor of International Studies and Director of the School for International Studies, Simon Fraser University, Vancouver*

“Professor L.K. Deshpande is among the doyens of labour economics in India and has contributed immensely to the development of the discipline. He belongs to the select leading lights among Indian academics who have been relentless in their quest for an egalitarian and just India. This volume is a celebration of Prof. Deshpande’s work and life. It is edited by well-known scholar, K.R. Shyam Sundar, who has had a long-term association with L.K. Deshpande, beginning with his doctoral work. The book engages with several important themes central to Deshpande’s academic canvas, especially in the context of India’s current macroeconomic policy regime, and consists of contributions from eminent and well-known scholars. The book is divided into four sections: Mapping and Understanding Informal Labour; Profiles of Informality and Precarity; Industrial Relations and Trade Union Organisation; and Jobless Growth, Industrial and Employment Policies and Labour Market Reforms. These themes are indeed of great contemporary relevance and provide important windows to several aspects of India’s political economy, in particular the major issues and challenges in the context of currently ascendant neo-liberal economic globalisation. In a well-written and rich introduction, the editor of the volume has woven through the diverse themes and he rightly highlights that ‘the Labour Question’ is indeed the major ‘Social Question’ in contemporary India because of the persistent social inequalities and precarity of work for the overwhelming majority of working people. The volume is a fitting tribute to the scholarship and concerns of L.K. Deshpande as contributors have done very well in engaging with the contemporary debates and pushing their boundaries. I have no hesitation in saying that policy makers, scholars, students and activists, interested in the world of work, will find this volume extremely worthwhile.”

—Prof. Praveen Jha, *Professor, Centre for Economic Studies and Planning,
School of Social Sciences, Jawaharlal Nehru University, India*

“This collection of essays edited by Prof. Shyam Sundar has left a deep impression on me. Is labour a short-term cost to be minimized or is it an asset which appreciates over time and whose benefits can potentially far outweigh the costs, if we invest in it? As I look around me and watch the forces of disruption power the perennial gale of creative destruction, the importance of labour and labour ecosystems emerges as one of the critical factors to which popular debate does not give enough attention. As a business practitioner and a Member of the Governing Body of the ILO, it was fascinating for me to read the academic view on issues which I grapple with on a daily basis: issues of informalization and precarious work, flexibilities or the lack of it in the job market, the impact of technology, globalization, demographics and migration on the future of work, the workplace and workers.... The human aspects of the platform and gig economies, the battle for workers’ rights, jobless growth, and various other dynamics of the labour ecosystem—all these are

woven together in a fascinating tapestry by Prof. Shyam Sundar. These essays both raise questions and answer some, but what they do above all is to give insights and provoke further thought on issues that will be critical to the future of humanity.”

—Mr. Rajeev Dubey, *Group President (HR & Corporate Services) & CEO (After-Market Sector), Member of the Group Executive Board, Mahindra & Mahindra Ltd; Member, Governing Body, ILO, Geneva; Member, Board of the International Organization of Employers (IOE), Geneva; Member, Council of Global Advisors of the Yale School of Management (Yale SOM), USA*

“Prof. L.K. Deshpande is the most distinguished labour economist in India. He has a good combination of excellence in both teaching and research. Many students told me that they benefited from Prof. Deshpande’s lectures and research publications. His contributions to labour economics and industrial relations are well known. For example his early work on segmentation of labour market, a case study of Bombay gives lots of insights. Also unlike some of the research papers, Prof. Deshpande’s papers have balanced approach to the issues and policies in labour and employment. His paper with Dr. Sudha Deshpande on employment trends in India is a very balanced one and not based on ideological bias. He has also contributed a lot to the Indian Society of Labour Economics and the Indian Journal of Labour Economics. I compliment Prof. K.R. Shyam Sundar for bringing out essays in honour of such a distinguished labour economist like Prof. L.K. Deshpande. The edited book contains articles contributed by well-known scholars on labour, employment, labour institutions and industrial relations. One can learn a lot on this subject from the articles included in this volume. The introductory chapter by Prof. K.R. Shyam Sundar provides a very good overview of the issues and policies discussed by the contributors. This volume is also timely as the country has been discussing on employment growth and labour market reforms. This book is an important addition to the literature on labour market, labour institutions and industrial relations and will be useful for researchers, policy makers and those interested in labour and employment policies. The volume is a fitting tribute to Prof. L.K. Deshpande who has been a source of inspiration to many of us.”

—Prof. S. Mahendra Dev, *Director and Vice Chancellor, Indira Gandhi Institute for Development and Research (IGIDR), Mumbai*

“This important new book questions dominant narratives of labour markets in contemporary India. It contains a fine array of studies in honour of L.K. Deshpande, whose monumental studies of labour market segmentation influenced generations of researchers in India. Aably marshalled by K.R. Shyam Sundar, the volume contains new contributions from many of India’s leading scholars of employment relations and political economy, as well as practitioners engaged in policy and regulation. Readers will find leading-edge studies from a wide range of sectors, including auto manufacturing, IT and construction, as well as plantation labour,

domestic work, child care, freelancing and gig work. Together, these contributions draw new theoretical and empirical connections between informal work, precarious employment and precarious living. The book thus provides a timely rejoinder to the labour law reform debate in India. Following in Professor Deshpande's pioneering footsteps, the book skilfully demonstrates that the flexibility sought by capital and the state has long existed in India's labour markets."

—Dr. Tom Barnes, *Economic Sociologist, ARC DECRA Senior Research Fellow, Institute for Religion, Politics & Society, Australian Catholic University, Author of "Making Cars in the New India" (Cambridge University Press, 2018)*

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ABBREVIATIONS

AABY	<i>Aam Aadmi Bima Yojana</i>
ADB	Asian Development Bank
AICTE	All India Council for Technical Education
AIFAWH	All India Federation of Anganwadi Workers and Helpers
AITUC	All India Trade Union Congress
ALMPS	Active Labour Market Policies
ASHA	Accredited Social Health Activist
ASI	Annual Survey of Industries
ASSOCHAM	Associated Chambers of Commerce
AW	<i>Anganwadi</i> Workers
AWC	Anganwadi Centre
AWTC	<i>Anganwadi</i> Training Centres
BAI	Builders Association of India
BBBP	Beti Bachao Beti Padhao
BBI	Bachelors in Banking and Insurance
BIR	Bombay (now Maharashtra) Industrial Relations Act
BJP	Bhartiya Janata Party
BLS	Bureau of Labour Statistics
BMS	Bhartiya Mazdoor Sangh
BOCWA	Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996
BPO/BPM	Business Process Outsourcing/Management
BT	Biotechnology
CBO	Community-Based Organizations
CBT	Central Board of Trustees
CCI	Confederation of Indian Industries
CDPO	Child Development Project Officer

CEO	Chief Executive Officer
CHSU	Calcutta Street Hawkers' Union
CITU	Center of Indian Trade Unions
CIVIDEP	Civil Initiatives for Development
CLA	Contract Labour (Regulation and Abolition) Act
CLAR	Contract Labour Abolition and Regulation
CLRA	Contract Labour (Regulation and Abolition) Act
CLS	Core Labour Standards
CMDA	Calcutta Metropolitan Development Authority
CMIE	Centre for Monitoring Indian Economy
CPI	Consumer Price Index
CPI (M)	Communist Party of India (Marxist)
CPML	Communist Party of India (Marxist-Leninist)
CPO	Central Government Police Organization
CREDAI	Confederation of Real Estate Developers of India
CSO	Central Statistical Organization
CTUO	Central Trade Union Organization
CV	Coefficient of Variation
CWA	Construction Workers Act
DADEW	Downward Adjustability of Directly Employed Workers
DFID	Department for International Development
DME	Directory Manufacturing Establishments
DMK	Dravida Munnetra Kazhagam
DTUC-CPML	Communist Party (Marxist-Leninist)
EODB	Ease of Doing Business
EPF	Employees' Provident Fund
EPFO	Employees' Provident Fund Organization
EPL	Employees Protection Legislation/Laws
EPW	Economic and Political Weekly
ER	Employee Relations
ESI	Employees' State Insurance
ESO	Employee Stock Ownership
EUS	Employment Unemployment Survey
FDI	Foreign Direct Investment
FICCI	Federation of Indian Chambers of Industries & Commerce of India
FITE	Forum for Information Technology Employees
FLFPR	Female Labor Force Participation
FLSA	The Fair Labour Standards Act
FNCL	First National Commission on Labour
FPI	Foreign Portfolio Investment
GDP	Gross Domestic Product

GEA	Global Employment Agenda
GOI	Government of India
GPS	Global Positioning System
GSDP	Gross State Domestic Product
GVA	Gross Value Added
GVC	Global Value Chain
GVI	Global Value Index
HDR	Human Development Report
HMS	Hind Mazdoor Sabha
HR	Human Resource
HRD	Human Resource Development
HRM	Human Resource Management
HSC	Hawker Sangram Committee
IAS	Indian Administrative Service
ICDS	Integrated Child Development Services
ICESCR	International Convention of Economic, Social and Cultural Rights
ICLS	International Conference of Labour Statisticians
ICRIER	Indian Council for Research on International Economic Relations
IDA	Industrial Disputes Act
IESO	Industrial Employment (Standing Orders) Act, 1946
IHDS	India Human Development Survey Data
ILC	Indian Labour Conference
ILC	International Labour Conference
ILO	International Labour Organization
IMF	International Monetary Fund
INTUC	Indian National Trade Union Congress
IRC	Industrial Relations Commission
IRS	Industrial Relations System
ISA	Individual Security Account
IT	Information Technology
ITA	Indian Trusts Act
ITEC	Indian Technical and Economic Cooperation
ITES/ITS	Information Technology Enabled Services
ITI	Industrial Training Institutes
ITUC	International Trade Union Confederation
IWC	Industrial Welfare Commission
IYCF	Infant and Young Child Feeding
JIT	Just-In-Time
KASWWF	Kerala Artisan and Skilled Workers' Welfare Fund
KITU	Karnataka State IT-ITeS Union

KKPKP	Kagad Kach Patra Kashtakari Panchayat
KLEMS	Capital, Labour, Energy, Material and Services
KMWP	Kerala Migrant Welfare Programme
KSY	Kishori Shakti Yojana
LB	Labour Bureau
LB-EUS	Employment-Unemployment Survey by the Labour Bureau
LIC	Labour Investigation Committee
LLRC	Labour Law Review Committee
LPA	Labour Process Analysis
LPT	Labour Process Theory
MAKS	Maharashtra Rajya Anganwadi Karmachari Sanghatana
MCA	Master's in Computer Applications
MCPC	Mother & Child Protection Card
MDWWBA	Maharashtra Domestic Workers Welfare Board Act
MEITY	Ministry of Electronics and Information Technology
MESMA	Maharashtra Essential Services Maintenance Act
MGNREGA	Mahatma Gandhi National Rural Employment Guarantee Act
MISC	Miscellaneous Income
MRTU-PULP	Maharashtra Recognition of Trade Unions & Prevention of Unfair Labour Practices Act, 1970
MSME	Micro, Small and Medium Enterprise
MWCD	Ministry of Woman and Child Development
MYS	Mean Years of Schooling
NABARD	National Bank for Agriculture and Rural Development
NASSCOM	National Association for Software and Services Companies
NCC-CL	National Campaign Committee on Construction Labour
NCEUS	National Commission on Enterprises in the Unorganized Sector
NCP	National Congress Party
NCW	National Commission for Women
NDA	National Democratic Alliance
NDLF	New Democratic Left Front
NDME	Non-Directory Manufacturing Establishments
NDTV	New Delhi Tele Vision
NEEM	National Employability Enhancement Mission
NEFLO	National Federation of Labour Organizations
NEP	National Employment Policy
NFSA	National Food Security Act
NGO	Non-governmental Organizations
NIC	National Industrial Classification
NLRA	National Labour Relations Act
NPAG	Nutrition Programme for Adolescent Girls

NSDEP	National Skill Development and Entrepreneurship Policy
NSDP	Net State Domestic Product
NSS	National Sample Survey
NSSO	National Sample Survey Organization
OAME	Own Account Manufacturing Enterprises
OB	Organizational Behavior
OBC	Other Backward Communities
OECD	Organisation for Economic Co-operation and Development
OLM	On Line Market
OSH	Occupational Safety and Health
PIL	Public Interest Litigation
PLA	Plantations Labour Act
PMO	Prime Minister's Office
PPP	Public-Private Partnership
PPS	Primary Producer Societies
PS	Principal Status
PSE	Public Sector Enterprises
PSF	Price Stabilization Fund
PWA	Payment of Wages Act
QC	Quality Circles
QES	Quick Employment Surveys
RCL	Royal Commission on Labour
RPS	Rubber Producer Societies
RSBY	<i>Rashtriya Swasthya Bima Yojana</i>
SAP	Structural Adjustment Programme
SC	Scheduled Castes
SCE	Shops and Commercial Establishments
SDG	Sustainable Development Goal
SEWA	Self Employed Women's Association
SEZ	Special Economic Zone
SHG	Self-Help Groups
SLC	Standing Labour Committee
SMC	Sanat Mehta Committee
SNCL	Second National Commission on Labour
SRA	Societies Registration Act
SRB	Sex Ratio at Birth
SS	Subsidiary Status
ST	Scheduled Tribes
STPI	Software Technology Parks of India
SWaCH	Sanitation Water and Community Health
TNSE	Tamil Nadu Shops and Establishment
TPM	Total Production Management

TQM	Total Quality Management
TU	Trade Unions
TUA	Trade Unions Act
TUCC	Trade Union Coordination Committee
UAN	Universal Account Number
UDE	University Department of Economics
UI	User Interface
UK	the United Kingdom
UNA	United Nurses Associations
UNDP	United Nations Development Programme
UNI	United News of India
UNITES-PRO	Union of IT and ITeS Employees-Professional
UPA	United Progressive Alliance
UPASI-KVK	The United Planters Association of Southern India-Krishni Vigyan Kendra
UPS	Usual Principal Status
US	the United States
US DoL	United States Department of Labor
USGOA	United States General Accounting Office
USIRS	United States Internal Revenue Service
USSR	Union of Soviet Socialist Republics
UT	Union Territories
UTUC	United Trade Union Congress
UTUC	LS–United Trade Union Congress (Lenin-Sarani)
WEIGO	Women in Informal Employment: Globalizing and Organizing
WITS	World Integrated Trade Solution
WPR	Work Participation Rate

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CHAPTER 1

Introduction: Towards an Understanding of Informality and Precarity and of Some Institutional Developments and Challenges in Labour Markets and Industrial Relations in a Globalizing India

K. R. Shyam Sundar

1 THE INSTITUTIONAL FRAMEWORK OF LABOUR MARKETS AND THE INDUSTRIAL RELATIONS SYSTEM

Independent India sought to secure faster economic progress through economic planning. Economic planning strategized a significant role for the state and its institutions. State intervention was preferred to market-led growth model in the product market and to collective bargaining model in the industrial relations system (IRS) in India. Fierce nationalism and the need for speedier economic progress defined the role of labour in economic development as one of the nation builders, as one who would

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eschew sectional interests to espouse the cause of national interest. The industrial and the labour policies designed during the years immediately after political Independence envisaged state intervention in industrial economy via industrial licensing and other instruments and also in the IRS in order to usher in speedier economic progress and to ensure industrial peace (Shyam Sundar 2009).

During the planning, a kind of implicit social pact between state, capital and labour at least concerning the organized sector was obtained. State would extend organizational legitimacy to trade unions and provide labour welfare via a host of labour legislations; it would enable supply of disciplined and committed workforce to the firms. In exchange, labour and capital would accept state intervention and ensure industrial peace and industrial growth. The relations between state, capital and labour were accordingly structured. In the process of 'regulation accumulation' the state and its instrumentalities like the legislature, the labour administrators (such as the labour inspectors) and the judiciary expanded their scope and coverage of intervention. In India, state has determined the procedural and substantive rules of the IRS through labour laws, whereas in countries that have adopted voluntarism model, collective bargaining supplemented by mediation and voluntary arbitration determines such rules (Deshpande 1992).

The legal framework of the IRS has been determined in accordance with the International Labour Organization (ILO) instruments (comprising Conventions and Recommendations) and the Constitution of India, 1950. Though the Constitution assures freedom of association and unions as a fundamental right under Article 19(1)(c), but the complementary rights or rights derived from the former right such as the right to strike or the right to trade union recognition are not elevated to the status of a fundamental right. The Directive Principles of State Policy constitute the aspirational goals of Indian Society and hence provide directions to policymakers and judiciary. They include right to work, living wage, equal pay for equal work, workers' participation in management and so on. Under the Constitution, 'Labour' figures in the Concurrent List, which means that both the central government and the state governments can enact laws subject to the condition that in the event of conflict between the laws passed by both the law enacted by the Centre will prevail over the state; however, the state governments can pass amendments on the same subject which are different from those of the central law if they secure the assent from the president.

As a result of the aforementioned Constitutional arrangement, reportedly 44 central labour laws and hundreds of state-level laws apart from

hundreds of judicial decisions (which constitute case laws and become governance instruments), govern the IRS and labour market actions in India. The central labour laws cover aspects relating to (a) safety and conditions of work in factories, (b) industrial relations, (c) wages and other aspects of compensation and (d) social security. The three main labour laws that concern us here are, the Trade Unions (TU) Act, 1926, the Industrial Disputes (ID) Act, 1947 and (d) the Contract Labour (Regulation and Abolition) (CLRA) Act, 1970.

The TU Act provides for voluntary registration of trade unions and extends a set of rights (immunity from civil and criminal conspiracy) and liabilities (e.g. governance aspects of a trade union) but does not provide for compulsory recognition of trade unions for collective bargaining purposes. The ID Act has created institutions like works committee, grievance redressal cell, collective bargaining, conciliation, court of inquiry, voluntary arbitration and compulsory adjudication (labour courts and industrial tribunals) to prevent and resolve industrial disputes. It also seeks to regulate strikes and lockouts, especially in public utilities. More importantly, it requires industrial establishments (only registered factories, mines and plantations) employing 100 or more workers to secure *prior* permission from the appropriate government (apart from serving notices to trade unions and workers as relevant) before effecting layoff and retrenchment of workers and closure of establishments, and provide compensation as provided for in the Act. This has been a contentious provision as we see later. The CLRA Act primarily provides for abolition of contract labour under certain conditions (as stipulated under Section 10 of the Act) and regulates the welfare facilities concerning contract labour.

2 LABOUR MARKETS IN INDIA

It is well established that labour market in India is not only large, comprising approximately 500 million workers but deeply segmented, but it is segmented on the basis of gender (which is not unusual in any country as Papola 2013 points out) and other features which are unique to India, such as caste, religion, geographical origin (rural and urban) and cultural and linguistic features (see Deshpande 1983; Papola 2013). But segmentation of labour market on the basis of regulatory (labour laws or trade unions) coverage is unique to India and has been a subject of extensive debate—one with which this book is also concerned. As we noted earlier the legal framework in India is quite complex in terms of its coverage. Prof. L.K. Deshpande carried out a seminal work on labour market in Mumbai during the

Table 1.1 Total employment by sectors, 2011–12

<i>Economic activity/sectors</i>	<i>Employment (in millions)</i>	<i>% Share</i>
Agriculture	231.9	48.89
Manufacturing	59.8	12.61
Non-manufacturing	55.3	11.66
Services	127.3	26.84
Total	474.3	100.00

Source: Mehrotra et al. (2014, Table 1)

Note: Employment count is based on the usual principal and subsidiary status (UPSS) approach (see GoI 2014 for definitions). Non-manufacturing sector includes construction, electricity, gas and water supply

mid-1970s which brought out in a clinching manner the segmented (rural/urban origin) nature of it (Deshpande 1983) (Table 1.1).

We see from Table 1.1 that agriculture accounted for nearly half (48.89 per cent) of the workforce in 2011–12 (the latest year for which we have the data), while the manufacturing (organized and unorganized) and the non-manufacturing sectors employed 12–13 per cent each, and the services sector little more than one-fourth (26.84 per cent) of total workforce. The open unemployment rate in 2011–12 was estimated to be 10.6 per cent (Mehrotra et al. 2014, Table 1). The most important segmentation of labour market is the so-called division variously called as organized and unorganized or formal and informal (Table 1.2).

The predominance of informal employment (informal in the organised plus informal in the unorganized sectors) is evident in all the sectors though its share is slightly less in the service and the manufacturing sectors. In the economy as a whole, informal employment accounted for 92.54 per cent. Most labour laws apply to the manufacturing sector, and we see here that it could at best cover 10 per cent of total employment in this sector. According to Papola et al. (2008), the proportion of workers eligible to be covered (as per laws' definition on coverage of workers) in the total workers estimated in 1999–2000 was the highest, that is, 38.1 per cent in the case of the Minimum Wages Act, 1948, and for all other important laws, it ranged from 2.2 per cent to 10.5 per cent. Seen in terms of the status of workers, the self-employed workers constituted a little more than half (52.2 per cent) of the total workforce in 2011–12, while the casual workers 29.92 per cent and the regular workers 17.86 per cent. We see that informality is already built into the labour market in terms of 'non-coverage' of most of the workers by any applicable labour laws and in this sense it is a fundamental governance failure.

Table 1.2 Distribution of employment in various sectors by matrices of organized/unorganized and formal/informal (figures unless otherwise mentioned, in millions)

Sectors	Organized		Unorganized		Total		Overall (6) + (7)
	Formal	Informal	Formal	Informal	Formal	Informal	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Agriculture	0.5	17.7	0.1	213.6	0.6	231.3 (99.74)	231.9
Manufacturing	6.1	14.6	0.4	38.7	6.5	53.3 (89.13)	59.8
Non-manufacturing	2.7	19.7	0.2	32.7	2.9	52.4 (94.58)	55.3
Services	24.2	16.1	1.2	85.8	25.4	101.9 (80.05)	127.3
Total	33.5	68.1	1.9	370.8	35.4	438.9 (92.54)	474.3

Source: Mehrotra et al. (2014, Table 4)

Note: Figures in parentheses in column (7) refer to percentage of informal employment in the total employment in each sector. The definitions of informal sector and informal worker correspond to the definitions given by the National Commission on Enterprises in the Unorganised Sector (NCEUS) (see Mehrotra et al. 2014, 57 for the definitions)

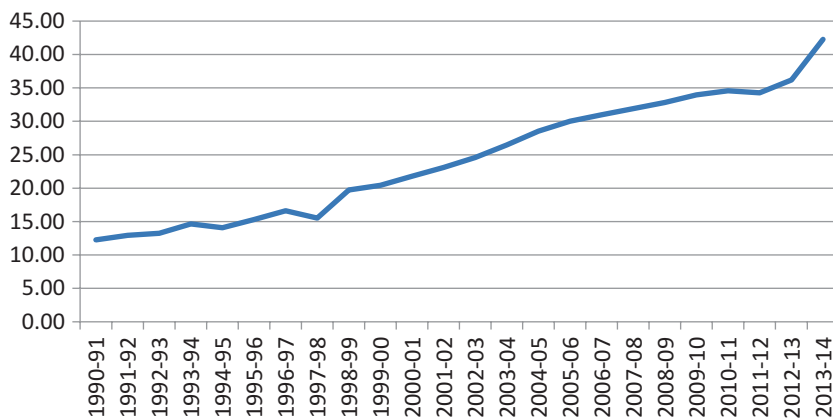


Fig. 1.1 Percent share of contract workers in total workers in the organized factory sector, 1990–91 to 2013–14. Source: Various issues of the Annual Survey of Industries, Ministry of Statistics and Programme Implementation, Government of India

The tremendous rise in the share of contract workers in the total employment in the post-reform period reveals informality (often referred to as ‘contractualization’) also in the organized factory sector in India (see the Fig. 1.1).

3 POST-REFORM PERIOD, 1991 ONWARDS

In a concrete sense, economic reforms concerning domestic and external economic aspects began since 1991. The economic reforms came to be introduced under duress as India secured financial assistance under the structural adjustment programme (SAP) loan facility from the International Monetary Fund (IMF) which imposed conditionalities covering fiscal, monetary, trade and labour market governance. These conditionalities are built on the premises of a ‘neoliberal perspective’ which calls for deregulation in the product and the labour market apart from calling for state retrenchment. (see Shyam Sundar [forthcoming](#), for a full discussion of these aspects). In the domestic economy it simply means complete liberalization of the product market and privatization, and on the external front it includes measures like free trade and investment (both portfolio and productive). With respect to the labour market it means liberalization of labour laws and labour market governance. In a basic sense these affirm the neoliberal idea of globalization. (see Das [2015](#); Patnaik [2014](#)). There exists revisionist as well as augmented versions of neoliberalism which are based on the Washington and the post-Washington Consensus (see Shyam Sundar [forthcoming](#)). More importantly, neoliberal perspectives argue that labour institutions such as labour laws and other regulations, trade unions and collective bargaining, etc. impose ‘rigidities’ on the working of the market forces and thereby produce adverse outcomes in the labour market such as unemployment and rise in informality, which eventually hurt economic growth, and these in turn affect workers’ welfare (e.g. see OECD [1994](#); Besley and Burgess [2004](#)). So, neoliberal agenda, among others, calls for flexible labour market and weakening of collective institutions and in a sense restoration of class power in favour of capital (see Coates [1999](#); Patnaik [2014](#); Harvey [2007](#); Das [2015](#)).

Employers (both domestic and foreign), pro-market academics and the global financial institutions have exerted tremendous pressure on the government to introduce labour laws and governance (inspection and administrative) reforms. Specifically, their demands are broadly the following: amend the labour laws to provide freedom to hire (contract labour for all activities, irrespective of whether they are core or non-core, fixed-term employment, etc.) and fire (remove the clauses providing for prior permission from the government for retrenchment of workers and closure of firms), and to enable employers to freely take decisions on work organization like introduction of new technology, liberalize inspection system to remove corruption and harassment and simplify labour administration

(records maintenance and returns submission to the government), and simplify and codify numerous labour laws (e.g. see FICCI-AIOE 2005; Shyam Sundar 2015, 2018a).

The government has been convinced that reforms of labour laws and governance are necessary for two reasons. It has clearly accepted the arguments of global financial institutions like the World Bank that such reforms will, among others, promote ease of doing business in the economy to attract foreign investment and promote employment. This argument has received academic support which has faulted labour institutions such as labour laws, trade unions as imposing ‘rigidities’ in the free working of the market forces and as obstructing employment generation (e.g. Fallon and Lucas 1991; Besley and Burgess 2004 (BB); Ahsan and Pages 2009), though these studies have been challenged (Bhattacharjea 2006; Guha 2009; Sarkar and Deakin 2011; Deakin and Haldar 2015). For example, Sarkar and Deakin have shown that labour laws (including their amendments) are in fact institutional ‘responses’ to wider economic factors (say unemployment) rather than the obverse of it (Deakin and Haldar 2015). It is important to note that while a stream of macro-econometric studies that were conducted since the 2000s followed the BB methodology and arrived at conclusions which are not materially different from those of BB despite the so-called revisions in the BB methodology done in response to strident criticisms by Bhattacharjea, among others, much of the Labour Economics academics ignored the findings of the two micro-level studies by Prof. L.K. Deshpande in association with others (see Deshpande et al. 1998, 2004) and a series of studies done under the supervision of and by Prof. T.S. Papola on labour regulation covering select states and sectors which run contrary to the BB-led pro-flexibility argument. Deshpande et al. conducted micro-level studies first in Mumbai and later at the national level—in the case of the latter, they collected information on employment and its composition and other economic and industrial relation variables from 1300 firms in 9 industries in 9 states in India—to analyse employment growth and its composition and determinants. Micro-level studies are more pertinent as decisions regarding employment and its composition, wages, collective bargaining, introduction of new technology, and so on are taken at the firm level and aggregated macro-economic data cannot distil these. Hence their findings assume far greater importance, even economic significance, than usage of macro-level secondary data. Notwithstanding the rigid labour market and an oppressive IRS, employers were able to change their employment at will (increase or decrease)

and those who increased their employment levels did so by increasing the share of non-permanent employees in the total. They also found that trade unions cannot be faulted for much of the ills that are generally associated with them and in fact they aided better wage levels to non-standard workers as compared to those in the non-union firms. Their studies remain duplicated and they continue to question the relevance of aforementioned labour flexibility studies. On the other hand, the studies conducted by and under the supervision of Prof. Papola showed, as noted above, the potential and the actual coverage of labour laws is quite low and in states like Andhra Pradesh (previously called), Maharashtra and West Bengal labour regulation did not adversely impact growth or capital and more worryingly these states had already begun to deregulate labour market governance in various ways. But at a policy level, the Ease of Doing Business surveys by the World Bank and the pro-labour flexibility studies have proved to be more decisive as employers and popular media used them as powerful lobbying tools while trade unions solely depended on their street protests instead of supplementing them with intellectual arguments (see Shyam Sundar 2017 for a detailed discussion of trade union strategies and an agenda for them).

The state is caught up in a dilemma as, on the one hand, there is pressure from the employers who threaten that if an enabling and conducive flexible labour market environment is not provided they would either not invest capital in India or relocate firms to the countries which assure these conditions (flight of capital argument), and, on the other hand, major labour reform measures will have political and social costs as unemployment and austere terms and conditions of employment (resulting from flexible labour market policies and practices) will mean political unpopularity and possible electoral reverses and social disruptions (mass politics argument) (see Varshney 1999). Trade unions have been protesting against the labour market reform measures stridently (see Shyam Sundar and Sapkal 2017 for details of union protests and their perspective). This has given way to some complex and interesting state policy dynamics (Bardhan 2002). However, it is clear from various pronouncements of the government that it *is* committed to promote a flexible labour environment and liberalize labour market governance and, in fact, have introduced reforms at the central and the state levels and propose to introduce far-reaching reforms in future (see the contributions in Shyam Sundar 2018a, for a comprehensive discussion of the reforms and the pros and cons of them). As a result, the equation between State, Labour and Capital has

significantly been redefined in favour of Capital and with a stress on Market as this is seen to be the only hope for economic growth, which, in turn, will lead to promotion of workers' welfare.

Of late, debates on the extent or absence of employment growth have been raging in popular media, thanks largely due to the absence of credible database. The debates have significant political significance and even undertones. Academics who seek to support the ruling government use database of registrations under employees' provident fund, national pension fund and employees' state insurance (Bhalla and Das 2018; Ghosh and Ghosh 2018). Others have used Labour Bureau's Quarterly Census of Employment (though with limited coverage of eight sectors) and the Centre for Monitoring Indian Economy (CMIE) database to show that employment growth has slowed down during the last few years of the National Democratic Alliance (NDA) rule (Abraham 2017; Vyas 2018b). The claims of employment growth by Bhalla and Das (2018) and Ghosh and Ghosh (2018) have been contested by several who typically argue that social security database being limited to covering primarily the organized sector cannot be used to assess job creation, and they may at best show formalization of jobs (see Nagaraj 2018; Kapoor 2018; Vyas 2018a). There is also an argument that two sectors, viz. traditional construction sector and the emerging industries like information technology (IT) industry and IT-enabled services (ITeS) and IT-using industries like online labour and platform-based services offer tremendous employment generation possibilities, but these are mostly informal jobs. Hence, there are two issues here: first, there are disputations on the numbers of employment generated and, second, on the quality of employment generated. The recently leaked National Sample Survey data shows even the numbers such as unemployment rate show dismal labour market context during the last few years of the NDA rule.

Further even though there are studies that have showed or debated on prevalence of informality in the labour market, decline in union power, role of trade unions and the adequacy of governance of industrial relations, presence and growth of flexible jobs and jobless growth (apart from the studies quoted earlier, e.g. see NCEUS 2009; Breman 2001; Papola 2013; Kannan and Raveendran 2009; Sengupta 2003; Sapkal and Shyam Sundar 2017), there is a need to investigate further on some of the issues arising out of them. We need to understand (a) the characteristics of informal firms; (b) the institutional behaviour of regulatory institutions; (c) the incidence, determinants and specificities of dimensions of informality;

(d) the facets and processes of generation of precarity and the role of regulatory institutions in these processes across sectors and occupations; (e) the dynamics in relation to organizing of workers in informal economy and the nature of governance of employer-employee relations; (f) the characteristics and determinants of jobless growth; (g) the policy alternatives available; and (h) the dynamics of labour law reform processes. The articles in this book address all these issues. They, in fact, will advance our understanding of the current debates on both the quantity and quality of employment generation and in a larger sense the very underlying intellectual currents that inform the policy choices and the managerial strategies in the post-reform period. The ongoing debates on the quantity and quality of employment generation reiterates the need to study various aspects of the labour market and the IRS, as mentioned above, so as to add to the knowledge base to enable a more informed assessment of labour market and economic policies. These are aspects that have concerned Prof. Lalit Deshpande and in many senses this book will be a fitting tribute to his scholarship. This can be seen as a complementary contribution to the contemporary debates as I am editing another book which critically looks neoliberal globalization at an ideational and in a comparative institutional framework (see Shyam Sundar [forthcoming](#)). This book assumes importance in the wake of the articulation by the global community to achieve Sustainable Development Goals (SDGs) which among others include ‘Decent Work and Economic Growth’, viz. “promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all” (<http://in.one.un.org/page/sustainable-development-goals/sdg-8/>, Accessed on 28 October 2018).

It is in these contexts, we situate our book by (a) mapping and understanding informal labour in India and the role of labour institutions (Part I), (b) describing the facets and processes of precarious labour in various sectors/industries/occupations, both traditional and emerging (Part II), (c) inquiring into the dynamics of industrial relations and of organization of workers in both formal and informal sectors and labour rights in the context of developments in the labour market (Part III) and (d) examining the sources of jobless growth and labour market trends on the one hand, and describing the industrial relations, labour laws and employment policies on both critical and prescriptive notes (Part IV).

4 PART I: MAPPING AND UNDERSTANDING INFORMAL LABOUR

As has been shown earlier, informal sector accounts for a large amount of employment even in the manufacturing sector. Raj and Sen, in Chap. 2, use unit level data on the informal sector firms drawn from the National Sample Survey Organization (NSSO) surveys on the unorganized manufacturing sector for four years, 2000–01, 05–06, 2010–11 and 2015–16 to describe the economic characteristics of enterprises in the informal sector to fill in the vital gap in the literature. One of the important arguments for labour law reforms in India has been that firms do not have incentives to grow in size from small via medium to large primarily due to high regulation costs (the ‘missing middle’ argument). They provide solid support to this as they find crowding of firms just around the ‘formal legal threshold’, and these firms do not wish to invest in plant and machinery. The authors hazard an explanation along the regulation cost theory, viz. employers in and around the threshold frontier apprehend higher costs of regulation should they transit from informal to formal sector (say covered by the Factories Act, 1948). The huge hesitancy effect on the part of employers surely hurts economic efficiency as regulations prevent small firms to grow bigger to reap the economies of scale and realize allied outcomes like higher productivity. Such a transition is beneficial for the workers also as they show that wages are higher in formal sector establishments (attributable according to the authors to higher productivity and better human capital endowments of labour) than in those in the informal sector. This means a direct and significant correlation between labour productivity and wages. More damaging is the other finding which shows that firms owned by socially less advantaged like Scheduled Castes (SCs) and Tribes or other backward communities (OBCs) employ less workers and report lower levels of productivity, and these may, in their words, constitute “social barriers to firm growth in informal manufacturing in India, which restrict the participation of socially disadvantaged groups in the growth process of the economy”. So, two policy conclusions that emerge from their detailed analyses are, (a) design policies and reform governance structures that aid upward progression of establishments (reforms relating to ‘predatory’ regulation); (b) policies that directly help establishments owned by socially marginalized classes which will promote an inclusive developmental process.

In Chap. 3, Singh, Das, Abhishek and Kukreja take forward the critical arguments raised by Raj and Sen with regard to the rent-seeking nature of the regulatory institutions—it is trade unions that are rent-seeking regulatory agencies for Singh et al., while it is the state agencies for Raj and Sen. It is well known that statistics relating to trade unions are ‘bad’ and useless. Hence, they collected data on trade union’s presence/absence (which becomes their dependent variable) and host of economic and institutional characteristics of firms (which become their independent variables like output, labour costs, etc.) in their World Bank—funded project ‘Jobs and Development’ 2014–16. They add a revised version of BB index measuring labour regulation regime to their list of independent variables. The survey covered seven industries, viz. auto components, electronics, electrical equipment, leather products, textile and apparels and food processing. The results show that the union’s presence is less likely to be in a firm if it is a micro, small and medium enterprise (MSME) or is labour intensive (measured by share of labour to total costs). Then, they infer that given that these firms are less likely to generate ‘surpluses’ for a trade union to invest in unionism in them, that is, the chances of rent-seeking (returns above the competitive levels) are much less in these firms, and hence trade unions would typically avoid them. More importantly, they are more likely to be present in firms where the share of production workers in total is higher and in firms in states which are classified as pro-labour and in those which employ more contract workers. The latter is a puzzle, and I leave it to the readers to read the chapters in the book to see some interesting explanations for this and other findings. Be these as they may be, here, we have another neoclassical interpretation of labour institutions in neoliberal India.

We have noted that informalization and contractualization of jobs are two dominant features of employment in India in the post-reform period, which are argued to be outcomes of rigid labour regulations, principally due to the employment protection clauses in the ID Act (employee protection legislation (EPL) argument). Goldar and Aggarwal seek to map the temporal (trends) and spatial profile of informalization and contractualization of labour in the organized manufacturing sector and investigate the reasons for the rising informalization/contractualization of labour in it (Chap. 4). They use the unit-level data from NSSO’s Employment and Unemployment Surveys (1999–2000 and 2011–12) and the Annual Survey of Industries (ASI) data (for the corresponding years) for the organized manufacturing sector. They also use revised versions of BB Index in their quantitative exercises. They define ‘informal workers’ as workers in

the proprietary and partnership firms, except the regular and salaried workers with social security and all other unpaid family workers, all casual workers and any other workers without social security working in government/public sector, public/private limited company and cooperative societies/trust/other non-profit institutions and ‘contract workers’ as those employed in accordance with the provisions of the CLRA Act.

The interesting aspect of their mapping of precarious labour is when they compare contract labour employment with informal employment across industries. They find negative correlation between the two types of employment though insignificant. The inverse is problematic which may be due to statistical (i.e. the NSSO data are from household survey, while the ASI data are from enterprises) or substantive reasons (labour regulation regime). Their simple cross-sectional analyses of informal/contract employment shares classified by labour regulation regimes show that EPL regime does not lead to informalization but contractualization in the organized manufacturing sector.

Their econometric examination of the EPL argument by using the unit-level NSSO data (Model 1) and unit-level ASI data (Model 2) along with the labour regulation regime proxies (mentioned earlier) shows that labour regulation regime does not lead to informality, whereas it causes contractualization of employment in the organized sector. The apparent conflict in the results could after all be attributed to statistical reasons (directly employed workers in the ASI factories do not ipso facto mean permanent workers) rather than to substantive causes, and they submit that the absence of informality effects “depends on a bigger set of factors and the impact of labour regulations is probably not strong”. It is worth recalling here that Lalit Deshpande et al. (2004) study shows that non-permanent workers (casual and temporary only and *not* contract labour) increased from 32.23 per cent in 1991 to 36.47 per cent in 1998. So equating directly employed workers as permanent workers will be questionable. This empirical reasoning becomes stronger when we find that firms employ large numbers of non-statutory trainees (not statutory apprentices) under various skill promotion schemes (e.g. ‘earn while you learn’ in Maharashtra or National Employability Enhancement Mission (NEEM)) in the shop floor on regular tasks (see Patwardhan 2016 on NEEM).

According to Sapkal and Chhetri in India (Chap. 5), precarious work needs to be interpreted widely as there exists heterogeneity in the informal economy. Their chapter is interesting for two reasons—their methodological innovations and their findings. They use NSSO data (2004–05,

2009–10 and 2011–12) to classify workers using six indicators, viz. type of employment, non-existence of written employment contract, the low probability of finding longer tenure, limited duration of employment contract, non-coverage under social security like provident fund and medical insurance coverage and absence of access to voice mechanisms, that is, trade union membership. On the basis of these, they identify six forms of securities, viz. income, labour market, employment tenure, social security, skill and voice. More interestingly, they use cluster analysis to classify jobs into ‘high-intensity precarious jobs’ and ‘low-intensity precarious jobs’, and their classification would arguably imply that the ‘ideal job’ that the industrial society in the advanced countries once cherished is a thing of the past as deterioration of quality of jobs to the authors *is* persistent. Their results generally endorse our understanding of precarity, high incidence of absence of formal employment contracts, poor voice security, disadvantaged status of women workers, and so on. If we imagine that workers in the organized sector enjoy all forms of securities, then Sapkal and Chhetri correct us by showing that workers in this sector enjoy higher levels of employment tenure and social security but fare very poorly in terms of income, labour market, skill reproduction and representation of securities mainly because of high presence of informal employment. What bothers is the poor scores on skill reproduction which could have long-run implications for human capital formation. Their estimation shows that at an aggregate level, double the proportion of workers in the formal/organised sector enjoy at least one form of security as compared to those in the informal/unorganized sector. They also argue that workers are often trapped in the basket of insecurities, and hence precaritization is structured into the jobs. Based on their results, they call for targeted policy actions by the state to ameliorate the conditions of employment concerning those who are more probable to land up in informal and precarious jobs. This adds to the debate in this section as we have evidence to support neoclassical as well as institutional perspectives.

5 PART II: PROFILES OF INFORMALITY AND PRECARITY: INDUSTRY AND OCCUPATIONAL STUDIES

The chapters in this section seek to profile the characteristics of informal and precarious labour in traditional (plantation, construction), modern industries (automobile), emerging sectors (IT and IT driven sectors like

online labour markets) and informal occupations like domestic work and *anganwadi* work. This section is a revelation in several senses, viz. informality and precarity characterizes work across occupations, industries and sectors irrespective of whether they are traditional or modern; pathetic apathy of law enforcement or administering agencies or lack of regulations concerning workers; and in both traditional (*anganwadi* and domestic) and modern (online or gig economy) jobs, there is an ‘existential or identity crisis’ in the sense they are not yet recognized as ‘workers’ either by the government or in the law. These field studies constitute powerful investigations often amounting to even interrogation of the presence or absence or even inadequacies of labour institutions, and they, in fact, make a powerful plea for creation and restructuring of regulation if India is *still* committed to the promotion of decent work as informality and precarity amount to significant decent work deficits.

Plantation is one of the oldest industries and also somewhat well organized. Vijayabaskar and Viswanathan (Chap. 6) detect precarious working (lower wages and benefits, etc.) and living conditions in the plantations despite the presence of labour institutions, viz. the Plantations Labour Act, 1951 (PLA) and generally high unionization rates in them. They recount two events that occurred in 2015 that shook the workers’ world, though differently: in the eastern Darjeeling tea estates an estimated 1400 workers died of starvation, while 5000 odd women workers in the tea estates in Munnar in Kerala conducted a valiant struggle for nine days shunning aside the intervention by the Communist union and political leaders. Both have a story to tell and that is the impact of globalization and the consequent governance failure in this old industry which is facing severe crisis. Planters have argued that profit rates have been declining in the globalized economic environment due to several factors like falling prices of plantation crops at the global level, cheaper imports, higher cultivations costs at home, ageing of bushes, lack of capital infusion, and so on. Put briefly, plantations justify deterioration in conditions of employment due to economic crises. But the authors contest these arguments.

They argue that corporate strategy and governance failure are responsible for the crises apart from planters’ trade arguments. According to the authors, several larger planters like Tatas and Unilever have ‘abandoned’ production of plantation crops and positioned themselves in the high value-adding segments in the value chain like wholesale or retail to reap greater returns. On the other hand, the planters have relocated to sectors other than plantations. The implementation of PLA has been weakened in

the post-reform period. They observe that the planters have used economic crisis as an excuse to increase the employment of non-standard workers and mechanize production (mechanization of tea leaves plucking). Then, it is not surprising that wages in gross value added in this sector should have declined over the years (i.e. rise in productivity not matched by rise in wages). As typical of flexibilization strategy in other sectors (see Shyam Sundar 2018b, c), planters have fragmented the estates to less than 10 ha so as to ‘bypass’ labour regulation—PLA is applicable to estates having ten or more hectares. Fragmentation has also been strengthened by the state policy of aiding small growers’ model to address the ‘rural distress’ problem. Thus, state intervention and flexibility strategy of big planters have led to deregulation. This was a double folly as small growers stand to suffer from falling prices (result of free trade), and due to fragmentation, casual labour employment rose considerably. The authors do not merely analyse the problems but also indicate possible alternative models, like using organic methods and combining tea cultivation with cultivation of native herbs and trees, developing small grower collectives such as self-help groups (SHGs) and primary producer societies (PPSs), renovation of local water bodies, etc.

Globalization has led to informality by creating supply chains which are deep and wide, and the supply chain extends to even home-based workers. In Chap. 7, Kerswal and Pratap analyse the labour conditions across the supply chain in the automobile industry on the basis of the primary data collected using semi-structured interview schedule from the stakeholders, viz. managers, workers and the union leaders in the two major industrial clusters of Haryana, Gurgaon-Manesar and Faridabad-Ballabgarh. Though they note existence of several forms of informality (contract workers or union absence) in the lead firm and the firms in Tier I and Tier II, their dynamics differ due to economic and managerial aspects. Unstable commercial contracts, lower bargaining power thanks to ever-present threat of underbidding by competitors, slim margins, high labour turnover, etc. push the firms located at the lower tiers to resort to all forms of informality, including non-registration of their firms under relevant labour laws. While labour law compliance is fine at the higher levels, they deteriorate as we move down the supply chain. So here ‘informality’ is actually worsened or ‘generated’. Their section on labour law compliance alone is sufficient to prove that informality is ‘generated’ and not inherent because of structural (business) reasons. The lesson is more serious: it is entirely unreasonable that firms at the top level should resort to rent-seeking

behaviour even using unwarranted flexible labour production regime, while firms down the supply chain squirm in economic stress and hence are forced to create informality.

Secki (Chap. 8), Joseph (Chap. 9) and Noronha and D’Cruz (Chap. 10) engage the readers on the issues concerning existing and rising precarity in the emerging industries. The spectrum of IT industry has been in the news for all the wrong reasons in the recent months as large companies like Tech Mahindra, Tata Consultancy Services, Cognizant, etc. have been retrenching a good number of employees for various reasons. Secki has collected information from stakeholders, viz. workers, managers, trade unions and state government officials during his field study conducted during 2016–17 in Bengaluru. IT firms hire contract workers for low-end to high-end jobs, and this employment carries rights deficits like shorter and unpredictable tenure, absence of social security, non-accessibility of employee stock ownership and salary differentials. When the labour market is tight as it was in the IT industry either in general or for some skills, quitting companies constituted a source of ‘power’ in a capitalistic firm for the employees, and they have used this labour market option to improve their terms and conditions of employment. The high quit rates constituted a big managerial challenge as the managements needed to adopt strategies to extract ‘labour services’ from the ‘remaining employees’. During the times of economic buoyancy, IT industry resorted to higher employment than necessary, and hence they created a kind of ‘reserve army of unemployed labour’ in the internal labour market (as opposed to that foreseen by Marx in the external labour market), and this has been euphemistically called as ‘benching rate’ in the industry. Benching constitutes precarity in several senses like denials of training during normal periods and participation in live projects and so on. Secki notes that ‘exiting workers’ in the IT industry are ‘required’ or even coerced by not issuing experience and referral letters to train the benchers during their notice period. In this sense, training responsibility is shifted amongst employees in an intra-class sense. According to Secki, these constitute managerial processes of control over employees and transactions in the internal labour market. He further argues that in the current context, the employer-initiated separations have gained more prominence, which has its own dynamics rooted in the labour processes as these actions constitute the site of conflict. Lay-offs have become a challenging issue for IT employees, and in that sense, it has penetrated their psyche to a large extent. For a long time, employers in the industry exploited the ‘ambiguity’ about the applicability of labour laws

on firms in this industry and created a psychological environment which has created an abiding sense of vulnerability in the minds of IT employees which explains the failures of a few initiatives to organize them. Further, IT capital leveraging on the threat of relocation has secured explicit and implicit concessions from regulations. It is now well known that labour resistance is gradually growing stronger and has given rise to voice institutions in this industry. But given the chequered history of collectivization in the IT industry, Secki prefers to be cautious of its ‘momentum’.

It is here that Joseph’s chapter seeks to provide answers. The quest for ‘voice’ arises according to Joseph for various reasons, from a mere self-defence to adversarial context to revolutionary (provided the system is politicalized as Marxist-Leninists saw). His main argument is that the conditions in the IT industry provide ample scope for emergence of voice mechanisms despite the “much touted professional identity” (Noronha and D’Cruz 2009) which he brushes aside as a ‘false consciousness’, as they reflect the ‘class politics of social processes’ in neoliberal exploitative spaces in the IT industry smartly engineered by neo-HR management (HRM) regimes. Tensions are immanent in this industry as the managerial class seek to tighten their control, even noose over employees, at the workplace to strangle voices. Joseph decodes the neo-HRM strategy as creating a ‘deliberative insecurity’ in the sense that its intentions, calculations and the articulations are clear, and it signals that the target radar is wide as anyone can be the next ‘victim’. The labour processes that are adopted by the neo-HRM brigade betrays their neoliberal article of faith of appropriation and precaritization—for example, employee consent in the employment contract giving license to HRM officials the freedom to terminate is indicative of this. He sees the working of a hegemonic control of HRM over the employees during the entire work processes in the industry, and in this sense, exploitation is structurally incorporated in it. Hence, this industry is a modern site of precarity, and I quote him here: “Precarity is not just a series of random episodes of a few employees here and there but an all-encompassing state of the work context engineered by the policies and practices of the ‘deliberative insecurity’ design of employment relations.” There is a twist to this neo-HRM hegemony, in that dismissals by it are done with deep disdain for employees as they are driven by the so-called performance appraisal which begs many questions as far its legitimacy is concerned, forget its legality. The entire architecture of industrial jurisprudence so painfully constructed after decades of labour struggles in India has been blown to dust by the neo-HRM practice in this

industry. In this entire structured deliberative insecurity exercise, employers' strategic failure of not moving up the value chain to reap the benefits of technological advances is carefully hidden from the anti-collectivist flight of capital alarmist discourses. The dominant discourse by employers has been to associate permanency with inefficiency to legitimize deliberative insecurity regime and the same is perpetrated by de facto deregulation save in some states in the case of IT industry. But the game is not over. Voices are emerging and will emerge, thanks to the dynamics of thesis creating its own anti-thesis.

Use of IT has led to modern forms of work which are conveniently collected under the terms 'gig economy' or 'platform economy'. The growth of gig economy is phenomenal across the globe; they are raising various issues amidst others relating to regulatory concerns and even identity of players in them. It is in these contexts the chapter on online labour markets (OLMs) by Noronha and D'Cruz assumes vital importance. OLMs (jobs such as micro-tasks, skilled work and innovative projects which are undertaken online through platforms which connect indefinite numbers of clients and freelancers, often across borders) have players on the demand side (clients) and the supply side (freelancers) and the mediating platform. They interviewed 24 freelancers (15 full-timers and 9 part-timers) telephonically at Upwork OLM who are spread over in 13 cities and covered 5 aspects involved in such work such as seeking and finding remunerative jobs, building reputational and relational capital, facing fraud, abuse and discrimination, and contemplating the future. The mediating platform steers clear of financial or legal or any liability in the tasks that are performed by freelancers for the client. OLMs acquire increasing significance as it aids capitalism in terms of wider market access and profit maximization, while shielding the players on demand and supply sides from regulatory hazards. So what else does capitalism require? At the same time, these features reflect utter precarity, thanks to invisibility, shortness of tenure and anonymity of the people involved in these transactions. Those involved on the supply side (freelancers) need to build on networks and build track record of efficiency.

The authors are clear and vocal when they observe that OLMs involve everything that defy our conceptions of 'standard employment' and hence suffer from acute decent work deficits, and these are accentuated by abiding power imbalances and absence of regulation in this virtual economy. They detect vulnerabilities suffered by the freelancers (supply side), owing to the working mechanisms in the OLMs. They provide many examples.

Seeking and finding jobs involve bidding which is naturally competitive, and part-timers are obviously at a disadvantage in this aspect. Bidding is characterized by two disadvantages, viz. bidding zones could be extended (for increasing the prospect of clinching a contract) on payment (which may be an investment or a cost), and competitive bidding is based on ex-ante perception of lower costs to clients and biddings suffer from inherent downward bias. The biggest hazard could be with regard to payment realization! Building reputational and relational capital involves all the hazards that are involved in securing bids which implies some sense of longevity, and unless the freelancers thrive, they cannot build it—so a vicious cycle may prevail. Since clients have capital and projects and freelancers are out to prove themselves, obviously, there is a power imbalance. Then, it is not easy to imagine that several naïve (read inexperienced) freelancers could face fraud and racial discrimination—discrimination probabilities are higher, thanks to the cost arbitrage that could exist as freelancers from the South could underbid those in the North! Bullying is common in OLMs due to power imbalance and the racial divides which influence ‘perceptions’ over competencies of those disadvantageously placed not due to their labour market capabilities. Secki, Joseph and Noronha and D’Cruz so ably analyse and discern social, managerial and structural processes prevalent in modern industries and their analyses should alert the readers that informality is simply ubiquitous and hence pervade the world of work irrespective of sites of work, physicality or virtuality of spaces or nature of work (dirty and sweaty [say street vending] or sophisticated [involving algorithms]).

Platform economy arrangements of work such as Ola, Uber and so on are another segment of gig economy, and they have been flourishing in India. It is pertinent to note that several of those working on these platforms like Ola and Uber have gone on strike several times in several spaces demanding improvements in the terms of contract (see, e.g. Sundaram 2018; Times Now 2018). The central controversial issue is whether the Ola and Uber drivers are independent contractors with or employees of cab aggregators, and the Supreme Court (SC) in India is seized of this issue (ToI 2017). Cab aggregators have argued stridently not only here but elsewhere also that they merely provide technological assistance to the drivers to connect with riders on demand, and hence the drivers should be termed as independent contractors. On the other hand, it has been argued that these drivers are employees of the cab aggregators as passenger allocation, monitoring of performances and even disciplinary action following

the downgrading of the drivers are taken by the aggregators. These debates have held considerable academic and judicial attention in the US and the UK, and in this book, K.V. Ramaswamy (Chap. 11) reviews the developments in the US to enable India to take lessons from them. Such a review is important as gig economy has promoted precarity even as its proponents have argued that it expands and maximizes consumers' choice and the taxi drivers' welfare.

The word gig refers to a job that lasts for a short period of time and characterizes on-demand employment. Gig workers comprise delivery people, personal assistants, cleaners, drivers, cooks and the list is endless, and such works typically depend on organization of work and standard of living in the core urban economy. In the US, a company is required to issue W-2 Form to their employees on payroll and make tax deductions at source. However, they issue Form No. 1099 to report payment for services of their *non-employees* and 1099-Miscellaneous to those who are *independent contractors*. Uber issues such forms to its drivers. This practice results in an estimated 30 per cent savings in the companies' labour costs as the companies need not provide all kinds of work and social security benefits and compensations. More importantly, they are denied trade union and collective bargaining rights under the National Labour Relations Act, 1935. Owing to differing legal principles or interpretations, the Courts in the states in the US have arrived at differing conclusions with reference to the cases relating to Uber drivers in different states in the US—for example, in California, they are deemed to be employees, while in Florida as independent contractors. Ramaswamy discusses a couple of alternatives to these vexatious judicial routes such as deeming those working in the gig economy as *independent workers* (not as direct employees or contractors) or creating a portable 'social security bank' to which hiring companies will contribute on a pro-rata basis; hence, the 'status' of persons hardly matters and at least social security access and assurances are fulfilled—by the way, these schemes have evolved from the workers' side! Trade unions may pounce on this as a 'limited rights arrangement' as this focuses principally and even solely on social security and not on other germane rights. Anyway, Ramaswamy has done a comprehensive review of the proceedings (judicial or otherwise) with respect to finding out some institutional arrangement to safeguard at least some aspects of work life.

What are the lessons for India? As he notes that social security coverage in India is quite limited and even though contract workers are covered under social security laws, it is well known that they eventually are deprived

of it and this has been observed by the Second National Commission on Labour—SNCL (2002). The classical stance with respect to contract labour in India has been that the principal employer (user enterprise) is *eventually* responsible for all the welfare aspects, including the social security benefits of workers engaged by the contractors of that principal employer. However, the Delhi High Court has, in 2011, ruled in *Group 4 Securitas Guarding Ltd v. Employees Provident Fund Appellate Tribunal & Ors.* (<https://indiankanoon.org/doc/50495115/>, Accessed on 21 October 2018) that when the contractor is an independent legal entity with a separate social security code, he/she will be legally responsible and not the principal employer. Though this is a High Court judgement which is operative in its territorial jurisdiction, this is most likely to be cited in disputes elsewhere. And as noted earlier, the Ola and Uber legal cases are pending legal review in the apex court. Ramaswamy has highlighted two facets of precarity in his review of debate in the US and a brief discussion on the labour market in India, viz. technological advancements are leading to reorganization of work in such a manner to render standard employment increasingly irrelevant, and judicial pronouncements could divide the line between informality and standard employment. Then, in the absence of laws to determine the standard aspects of emerging work arrangements, we could from the US controversies learn to use technology to ensure a portable and widely accessible social security system. This is something, though limited in its canvas, which could be useful for the policymakers to mull over.

The government after considerable pressure from the workers' organizations (National Campaign Committee on Construction Labour [NCCCL]) enacted the Building & Other Construction Workers (Regulation of Employment and Conditions of Service) Act in 1996 (BOCW Act) and the complementary legislation Building and Other Construction Workers Welfare Cess Act (Cess Act) in 1996 even though as Hittanagi points out that construction work is as old as civilization! If the readers assume though not due to their fault that these two laws would have taken care of the welfare of the construction workers, they are hugely mistaken. Hittanagi's principal contribution to this book (Chap. 12) is to bring out the dimensions and dynamics of precarity of construction workers despite existence of regulations. Ever since these laws have been enacted, construction workers and their associations have had to knock at the doors of judiciary seeking judicial intervention to have these laws implemented!

Since most state governments and the Union Territories (UTs) did not even constitute welfare boards as was stipulated in the laws, in 2006, the NCCCL filed a public interest litigation (PIL) in the Supreme Court, seeking its intervention for ensuring effective implementation of the two laws in them. The Supreme Court directed the central and the state governments to frame and notify Rules for the implementation of the Act, set up the Boards and Advisory Committees and ensure holding of their regular meetings. No wonder that Hittanagi, who served as a senior labour department official in Karnataka overseeing the implementation of the two laws, has nothing, *literally nothing*, good to say as far as the implementation of the two laws are concerned. He narrates the woeful conditions of work and living of construction workers (inferably in Karnataka where he worked but applicable elsewhere too) and the indifference of the government authorities, the builders and other employers involved in this sector. He had had to take proactive measures and seek informally judicial officers' interventions, among others, to even register the workers under the welfare schemes in the laws. It is public knowledge that construction sector is most prone to fatal and non-fatal incidents, the former being higher, and most, unless they are terrible accidents, are hushed up. He must know this well enough to say this loudly in his chapter in this book. There is even life insecurity in this industry.

What is galling is that according to the statement made by Bandaru Dattatreya, Labour Minister, Government of India in Rajya Sabha in March 2017 only 21.66 per cent of the money collected under the Cess Act (1–2 per cent of cost of construction is collected as Cess from the builders under this Act) has been spent for the welfare of construction workers (see Economic Times 2017). If the readers of this book are stuck by the use of rather extreme and severe descriptions by the author, they need to appreciate the utter sense of shock and even frustration that dedicated and welfare-oriented senior officials like him must have experienced in the field. Again, that his chapter is not a diatribe against any agency is evident when the Supreme Court on 15 March 2018 observed that the “information regarding the collection and utilization of cess suggests nothing but a complete mess”, and directed all the government agencies concerning labour to establish and strengthen the machinery stipulated under the two laws for registration of establishments and construction workers and collection of statutory welfare cess, within a specified time frame. Further it directed the Ministry of Labour and Employment, the Government of India, to frame a comprehensive model scheme for

education, health, social security, old age and disability pension and other benefits for construction workers in consultation with the stakeholders (see Singh 2018 for a reportage of the Supreme Court's judgement). Arising out of his experience and endorsing the directives of the Supreme Court mentioned earlier, he makes some significant recommendations for ensuring the welfare of the construction sector workers. Since this sector has been touted to be a high employment generation sector, his chapter assumes immense significance.

In Chap. 13, Neetha discusses the adversities faced by the paid domestic workers (in short domestic workers) who are mostly female workers and whose numbers have swelled over the years. She points out that 'paid domestic work' is quite different from other forms of paid work, be they full-time or part-time. The peculiarities that characterize paid domestic workers include domination of personal relations, variegated nature of domestic work (live-in and live-out types) and so on. They are performed in private spaces of a household unlike in a registered workplace in the case of other paid work. Hence, governance of domestic work in terms of both union organizing and enforcement of regulations is problematic. Domestic workers are covered by a handful of laws like the Unorganized Workers Social Security Act, 2008, the Prevention of Sexual Harassment at the Workplace Act, 2013, etc. It is pertinent to note that these marginal regulatory coverage have been achieved due to the relentless struggles of these workers. To her, it is these developments that have imparted the 'language of employment contract' that dominates the current policy discussions on working conditions and employment relations of domestic workers.

Neetha, drawing on the field study, describes the experiences arising out of a unique model of organizing domestic workers, viz. non-governmental organization (NGO)-trade union-cooperative model which seeks to formalize employment relations and regulate conditions of work of domestic workers. Needless to say, these processes are fraught with tensions on both the supply side (domestic workers) and the demand side (the employers) in the labour market. The central institutional issue she brings out is the *hesitancy* on the part of domestic workers to move away from 'personal relations' forged between them and their employers (masters) over the years to law-enforced or union/NGO-negotiated 'formal relations'. Personal relations typify loyalty (historically and socially constructed) and also ensure some amount of flexibility for these workers in terms of working hours or holidays and so on. So legalization is neither universally desired nor feasible. Domestic work being rooted in feudal

patronage-based employee-employer relations means sustaining of non-wage relations is strengthened even when these workers are organized. Again, when a collective forum created a rate card for work, that is, X amount of money for Y amount of work, which standardizes employment relationship across spaces, underselling of labour power by some workers was prevalent. She offers a rich insight for explaining these contradictions as those who are organizing the domestic workers have “origins in the efforts of people who have a different social and economic background”. Put simply, they might be employers in some other spaces! Another contradiction that typifies this model is that once the organization got involved in recruitment and allocation of labour, market forces tended to dominate these exercises, notwithstanding the efforts to de-marketize them with values and norms. To an economist, the biggest hurdle in formalizing informality is the ever-lingering possibility of cheap labour substituting costly (read union-wage) labour, owing to the contradictions inherent in the economic and social structures. These dynamics at once institutionalize informality and deny space for regulation. Her conclusion is a dark reminder of the challenges that need to be confronted in any efforts in formalizing and empowering domestic workers and I quote her here: “... labour rights and worker identity remains a challenge, even with formal contracts, given the intersectionality of the sector with other axes of inequalities such as gender, class and caste”.

In 1975, the government of India created a programme called the Integrated Child Development Services (ICDS) to combat child hunger and malnutrition. In order to implement this programme, the government need (ed) volunteers and the persons who are women and who offer themselves for this kind of work are called as *anganwadi*—*anganwadi* is a Hindi term which literally means ‘courtyard shelter’. An *anganwadi* is sanctioned for a population of 1000 persons in a village or district, and she is accompanied by a *Sevika* (worker) and a helper, both women. The *anganwadis* perform significant social functions while implementing the ICDS programme of the government, such as planning for implementation of ICDS programme (e.g. village mapping, building rapport with the community, conducting community surveys and enlisting beneficiaries, birth and death registration) and so on. They perform other administrative functions also.

However, these ‘volunteers’ are *not* even now accorded the status of ‘workers’ by the central government, and the money paid for their services is called as ‘honorarium’ and not ‘wages’. Krishnaprasad and Peer have

sought, in Chap. 14, to narrate their struggles among others for the *basic* issue of securing ‘worker’ identity (which will bequeath on them other entitlements) for these volunteers. There cannot be a more sordid story of informality and precarity than that very elaborately narrated by them in their chapter. The central government has recently revised the honorarium of *anganwadis* and others marginally (ToI 2018). However, the authors observe three disturbing aspects of compensation to these workers (I continue to address them as *workers*), viz. there are regional variations in honorarium, it is revised at the discretion of the government and there are no automatic adjustments for inflation as in the case of ‘workers/employees’. They provide an elaborate account of their protests, struggles, lobbying and legal struggles to secure just not only their principal demands relating to workers’ status and better wages but also wider social concerns like universalization of the ICDS scheme and non-privatization of it. The very fact that the Government of Maharashtra invoked the Maharashtra Essential Services Maintenance Act (MESMA) to prohibit the strikes and protests by *anganwadi* workers (AW) in the state at once betrays the cavalier attitude of the government towards these workers and endorses even ironically that their services are indeed “essential” to the society at large!

What can be more damning to these people who have been doing phenomenal and invaluable service to the society in the development of human beings (I am consciously not using the term ‘human capital’ which has a materialistic sense) when the government stridently denies them the status of workers, pay them meagre honorarium and provide crumbs of social security! Why is the government denying them regular government employee status which has long been their demand? This will lead to rise in salary costs for the government as the number of *anganwadis* will generally increase as per population dynamics and so the Rajya Sabha Committee on Petitions in 2006 did not find it feasible to regularize them as government employees (Rajya Sabha 2006). What is more rueful are the effects of globalization in the sense that the government is proposing to withdraw its involvement in these social welfare schemes (already reflected in cuts in public spending on this) and make ICDS a part of corporate social responsibility activities (read corporatization) and/or shift it to public-private partnership model (PPP). Globalization cannot wring much harsher penalty to the Welfarist State than this!

6 PART III: UNDERSTANDING INDUSTRIAL RELATIONS AND THE DYNAMICS OF TRADE UNIONS AND WORKERS' ORGANIZATIONS

Now, three questions or issues arise in the wake of the foregoing analyses of regulation or its lack and hence the abiding and fast-rising precarity. In a basic sense, the issue of labour rights assumes critical importance in the era of globalization. Then, we need to understand the issue of labour rights in a broader perspective, both global and with special reference to India. What are trade unions, the vanguard of the working class, doing to organize the informal workers? The more basic question is whether trade unions are withering away in the globalized economic environment? Second, we have read several cases of industrial unrest during the post-reform period, especially during 2005–18 which were characterized by violence on the part of the workers, employers and the government. In some cases, violence has led to deaths on both sides (see Saini 2005, 2016; Shyam Sundar 2012 for a detailed discussion of industrial violence and some case studies of it). There is a debate amongst the practitioners and theorists whether we have to move away from conventional industrial relations discipline to a more accommodative and relevant paradigm, say employee relations or employment relations? In this section, we have three chapters which seek to address some of these questions if not concerns.

In Chap. 15, Reddy seeks to locate the issue of labour rights in a broader context to lead us to understand the issue of labour rights pertaining to India because labour rights in a fundamental sense is intricately connected with developments elsewhere and determined by history. This chapter is an important contribution to and, in fact, an endorsement of the arguments and perspectives that have been put forth in another book edited by me wherein several have critically interrogated the dominant orthodoxy of neoliberal globalization and in fact called for wider action in pursuit of alternatives to it (see Shyam Sundar, forthcoming). In fact, Singhvi (2018) makes a similar argument in another book edited by me in honour of Prof. Lalit Deshpande. Reddy traces the debates, the global conventions (from the First International onwards) and experiments which eventually have led to establishment of labour rights albeit incomplete. India then and now is organically connected to these developments. What comes out powerfully in his historical and global narrative is that labour rights are not a bounty offered by the ruling classes but hard won, be it enactment of the Trade Unions Act in Great Britain in 1871 or the

Chicago movement for eight hours of working day. It is these historical foundations and doubtlessly the crises that marked capitalism that led to the era of statutory regulation during the post-World War II period, 1945–80 as Guy Standing (2003) calls it.

If global forces and institutions coalesced as organically connected to establish labour rights, in the same sense, revival of *laissez-faire* in the new garb of neoliberalism of global institutions like the World Bank and the IMF imposed neoliberal economic agenda on economically gullible countries in Latin America or South Asia. While the former movement leads to benevolent labour market outcomes the latter seeks to dismantle labour rights in the name of promoting economic growth and elimination of poverty. The irony is that neoliberal economic regimes did not achieve either of the goals as Reddy shows in his chapter. This is once again echoing what Selwyn, Jha, Harriss and others have argued in Shyam Sundar (forthcoming). On the other hand, the annual surveys and reports of the International Trade Union Council (ITUC) show global convergence of dilution of labour rights. Following some of the critics of ILO's response to neoliberal globalization (e.g. Standing 2008; Breman and van der Marcel 2014), Reddy critically analyses of ILO's response. They make very interesting reading as also a balanced assessment of ILO's contribution to the world of work. In fact, like many, he too wonders what could multiple Declarations achieve in these contexts. His chapter assumes greater relevance for two reasons, viz. labour rights are increasingly under attack not only in India but elsewhere and understanding the dynamics that underlie labour rights is important. The year 2019 marks completion of 100 years of ILO and nothing could be so relevant to the centennial celebrations than a detailed analysis of labour rights which form the bed-rock of ILO's pet theme of 'decent work' and because labour rights are more likely to be under attack as the nature of work is undergoing radical changes, which are sought to be captured by the future of work debate initiated by ILO as a part of its centennial celebrations. He cites wide range of studies to show that the labour market outcomes in India in the post-reform period have been adverse (informalization and precaritization of labour, wage inequalities, etc.), and they at once reflect and constitute causes for withering away of labour rights. His argument is that in the event of failure of global institutions like the ILO to tackle the negative outcomes of neoliberal globalization, thanks to its soft promotionalism and voluntarism, then labour mobilization appears to be the only credible alternative to assert labour rights.

From the global discourse, we shift to another level to find out whether these have anything to do with the way employer-employee management is managed or even perceived. In Chap. 16, E.A. Ramaswamy argues for moving away from conventional Industrial Relations to Employee Relations and provides two case studies as a support to his argument. He points out that the recent bloody industrial conflicts indicate that industrial relations in the post-reform period is not much different from that which was obtained during the heady days of union militancy and union-busting actions of employers in the 1970s and the early 1980s. To him, the ‘actors’ in the IRS, trade unions and the government and the academia have not been able to understand some significant developments and I mention here two. Firstly, power in the trade union has shifted away from the union leaders to the union members. Secondly, workers have developed aspirations reflecting in their demand for higher wages and career growth and both trade union leaders and the management have failed to appreciate these aspirations if not responding to them adequately.

Basically, neither management nor trade unions has the ability to welcome a change. They stick to the conventional past, so rigidities get built in their handling of matters either in a union organization or in a firm. Both trade union leaders and the management live in the past of ‘political unionism’, but the reality is that workers act like mercenaries who elect and throw out leaders at their will and care for the ‘services’ of leaders and not leadership or ideology. On the other hand, management continues its own brand of rigid thinking that it can exercise its influence even forcedly over workers’ choices of leaders. Further, both unions and management are insensitive to the growing realization on the part of workers about the inequalities in compensation which makes them desire for more wages. So, mismatch on both sides naturally leads to protests and violence.

At a deeper level, do these reflect failures of the classic Industrial Relations (IR) or the new managerial disciplines like organizational behaviour (OB) or human resource management (HRM)? Ramaswamy thinks so. He advocates moving away from these and building what he calls ‘employee relations’ (ER) which in its essence is to break the barriers between workers and the management and build bridges. Why was it not possible in the past? This has not been possible because senior managers rarely visit the plant (little knowledge but with power), and the supervisors (knowledgeable but not having power) cannot be proactive. So ER see human bridges not as a means to materialistic and mathematical targets of productivity but structuring and governing relations between people. ER

may sound simplistic even well known but difficult as it is a long-run project. He demonstrates the effectiveness of ER with two case studies with which he was closely associated. It is wise as an editor to leave the drama in the plants to the readers rather than spoiling their fun by summarizing often inadequately in an editorial summary.

Balasubramanian who has studied the working of the workers' organizations in the informal economy which again like Ramaswamy's chapter brings about the dynamics of workers' organizations quite effectively in Chap. 17. Balasubramanian's basic argument is that trade unions in a generic sense can reinvent itself to assume various organizational forms to suit the context of workers' organizing which sites are mostly in the informal sector. He argues that there is a need to move away from (a) the classic image of a trade union whose site of operation is a factory and (b) the thinking that a workers' organization should ideally be registered as a trade union under the rather inept TU Act. Of course, we need to contextualize his study in the wake of talks of declining union membership if not obituaries of trade unions! He argues that there is not only a union revival but revitalization as workers' organizations are emerging in the vast informal sector.

He has studied intensively the working of three workers' organizations in the informal sector, viz. Hawker Sangram Committee (HSC), Civil Initiatives for Development (CIVIDEP) and Kagad Kach Patra Kashtakari Panchayat (KKPKP), dealing with street vendors, garment workers and waste pickers, respectively. He has looked into the working of these organizations including their objectives, strategies and so on and finds material to suggest converging divergence, an oxymoronic term which has gained considerable currency after Katz and Darbishire (2000) famously used this phrase to capture the changes taking place in the employment relations in the eight advanced countries. Converging divergence is applicable when processes and the nature of variations are similar even though at the institutional level there are differences. In the context of his study while organizing and fighting for betterment of conditions of work is the commonality, the three organizations have shown differences in terms of the strategies they used (confrontation or building strategic coalitions or empowering the constituents with information) or the organizational forms (cooperative or a society as against formal trade unions as we know of them in the formal factory sector). His basic argument stemming from these three stories is that, following evolutionary biology theory, it is perfectly possible for workers to reinvent their organizational form and strategies suiting

the contemporary challenges and will not be bothered about conventional notions of being a ‘registered trade union’ only. In other words, what he means is that alternative legal forms of workers’ organizations are possible which could be registered under different laws say Societies Registration Act or Indian Trusts Act, 1882 (e.g. Nutan Mumbai Tiffin box suppliers). These social laboratory experiments to him constitute challenges to the conventional notion of registered trade unions affiliating themselves to one political party or federation or the other and holding spaces at the national level. The stories he constructs typify in an ironical sense ‘non-standard’ workers’ organization stories engaging mostly women workers and multi-logging with social institutions (community forums) and using pragmatic and not ideology-dictated strategies. He argues for broadening the conceptual canvas and legal constructs to encompass different varieties of workers’ organizations. Balasubramanian’s study has made encouraging observations with regard to the emerging trends in tackling informality and precarity that has been dominant in the labour market through voice mechanisms.

7 PART IV: JOBLESS GROWTH, INDUSTRIAL AND EMPLOYMENT POLICIES AND LABOUR LAW REFORMS

It is not often that economic issues, especially labour market issues in India, become political and much less even electoral issues as they have become now. Jobless growth has come to haunt the political class as never before. I have already recorded the debate on jobless growth. There have been macro-notions of jobless growth, and Abraham in this book decodes the jobless growth. He does so by using the official statistics (NSSO and KLEMS database of the Reserve Bank of India [capital (K), labour (L), energy (E), material (M) and services (S)] research project) which fills in the gaps in the literature on it. His basic argument is that jobless growth needs to be contextualized in the structural changes taking place in the economy and also other product market dynamics like relative use of capital and labour. Jobless growth occurs when economic growth (measured in output growth) is not accompanied by commensurate job growth.

In Chap. 18, Abraham makes a fundamental point of departure when he argues that labour participation decision in a developing country is not according to the neoclassical maxim of ‘maximization function’ but dependent on ‘family income’. According to the analytical framework

developed by Abraham, there could be disjunction between economic growth and job growth for four reasons of which two reasons are straight forward, viz. capital substituting labour (substitution effect) and systemic dynamics in long run (e.g. reorganization of production, technological changes, etc.). As the structure of economy is transformed, capital-intensive sectors dominate production spaces, which is characterized by higher productivity but require less labour (lower employment elasticity). As a result, as per the Lewisian scheme, transfer of surplus labour from subsistence sectors (read agricultural sector in rural areas) to the modern capitalistic sectors takes place to the point of exhaustion of surplus labour in the former. Surplus labour reallocation leads to capital-intensive efficiency enhancing production techniques in agriculture which leads to higher family incomes and hence withdrawal of family members from work will take place. Further, better functioning of labour and credit markets will lead to better family income, which in turn prompt some in the family to withdraw. But these will read as rise in unemployment even though productivity enhancement has taken place. Thus, low employment growth may be due to three factors, viz. rising capital intensity *within* sectors, output growth differences *between* the sectors and *decline* in participation of surplus labour in traditionally labour-absorbing sectors like agriculture. His other argument is that there could be differences in output growth across sectors, which means that the interface between output growth and employment growth could be mediated by factor intensity and a structural bias towards capital-intensive sectors will mean higher productivity but less commensurate growth in jobs.

Using this analytical framework, he decodes the jobless growth for the period 1993–94 to 2011–12 and the elaborate details of his quantitative work need not detain us here. But to just give a taste of the rich statistical analyses in his chapter, I summarize some aspects here. Of those sectors that witnessed fall in employment, significant decline took place within the primary sector. The secondary sector witnessed stagnant employment growth. High employment generation was seen entirely within the service sector. Thus, he argues, “there exists a functional link between the two types of classifications based on economic activity and employment generation”. He finds that in almost all sectors, the contribution to incremental growth in output surpassed that for employment growth save in those sectors where employment increment was much higher than output. Even in the two sectors that recorded a fall in employment, an increase in output was recorded, even though smaller in comparison to other sectors. In

an aggregate sense, there obtained a widening gulf between increment in output and increment in employment. But the damning indictment of the job profiling, which he does with the help of Labour Bureau, KLEM and CMIE databases from 2013–14 to 2015–16, is that labour market dynamics of job creation and destruction are not happening; instead, employment declined almost everywhere which he terms as ‘major collapse in employment scenario’ because it is the lack of output growth that has contributed to stagnation in employment.

Eventually, jobless growth affects welfare of those at the margins of society. Then, we are prompted to ask whether these adverse outcomes can be tackled with the help of state policies to create some kind of balance between sectoral growth and employment growth, which is a typical interrogation in the institutional sense. Jose Thomas and Jayesh tackle the issue of integrating industrial and employment policies in Kerala in Chap. 19. Kerala is an interesting and a deliberate choice for this kind of interrogation for several reasons, primary being it ranks much higher on human development, yet low on industrial development—this was known as ‘development paradox’. In fact, Kerala has been a bundle of paradoxes as these come out quite pertinently in their chapter. Due to the significant, even powerful, role played by labour institutions like trade unions or the welfare boards, wage levels rose significantly even in the informal casual jobs. But as the service sector flourished, owing to absence of protective institutional coverage, wages in growth-oriented private service sector like hospital industries languish (e.g. frequent strikes by nurses in private hospitals). Thanks to remittances from abroad, the construction sector flourished as did the service sector. At the same time, there has been significant in-flowing migration of workers from northern states like Bihar and Uttar Pradesh who are more keen to take up manual jobs which the high-profile Malayalees do not desire. This is what I call geographical cum cultural allocation of jobs in the labour market. It is not market but social and labour institutions that allocate jobs in the labour market through various channels—social (caste), geographical (migrants), identity (permanent versus contract) and so on. (see Shyam Sundar [forthcoming](#)). Even though Kerala’s state income growth has been impressive in the post-reform period, the manufacturing sector has not been able to deliver either on growth or employment fronts. His basic argument is that there obtained a mismatch between the nature of labour supply and the nature of labour demand in the state.

These contradictions pose considerable challenges to the policymakers, especially the mismatches in the labour market. Kerala's problems are aggravated in the era of globalization as states in India are competing on a 'low-road competitive strategy' of offering all kinds of sops including lower labour standards, and Kerala, as we saw earlier, has higher labour standards. Then, as Jose Thomas and Jayesh correctly observe, Kerala is not suited for industrial development model that relies on polluting industries or industries demanding cheaper and unskilled labour. Given its high human development profile, Kerala offers a perfect setting for modern industries requiring high-skilled labour. The official stance of the government of Kerala corroborates the stance of the authors. The higher per capita consumption patterns in Kerala and the Malayalee diaspora who are rich in cash offer a rich product market for investors here. Kerala offers a perfect site for high road to development amidst states which thrive on flashing cheap and unskilled and compliant labour as incentives. This chapter is a wake-up call for both investors and developmental planners to move up the value chain and access rich resource base that Kerala offers. This is a challenge worth articulating and even worth emulating by others to create a richer discourse on development.

Verick joins Abraham in talking about jobless growth by opting for a more systematic and disaggregated types of analyses of labour market statistics. He agrees with Abraham when he observes that even though jobs were created, their slow growth could be attributed by withdrawal of workers from agriculture. In Chap. 20, Verick makes crucial value additions to the debate on employment by concentrating his statistical analyses on three issues, viz. falling rate of participation by women in the labour market and pervasive informality and structural issues in employment generation (manufacturing sector vs. services sector). The more pertinent point that he makes after scholarly analyses inquiring into the causes of declining female participation rate is that the projected rise in the female participation rate from an estimated 26.9 per cent in 2016 to 28.3 per cent by 2030 will not enable India to achieve Sustainable Development Goal No. 8. Secondly, he identifies pervasive informality in the labour market. Informality matters for a number of reasons, including denial of decent work and more importantly of its association with low productivity, and hence it is a drag on the economy. So he calls for an employment policy that will ensure that "job creation leads to more formal employment, which provide access to social security and employment benefits".

He tackles the question of applicability of ‘premature deindustrialization’ thesis—that is, the inability of the manufacturing sector to scale up its share in output and employment in the developmental process, thanks to the impressive lead taken by the service sector—by arguing that a shift from analysis of shares of sectors in total employment to employment growth rates by sectors would show that the manufacturing sector in India has been generating jobs *albeit* at a slower rate, and it has perhaps lost its shine in recent years. If service sector which contributed to more than half of the national income could employ a couple of percentage points over one-fourth of the total employment, then can we glorify this sector? He perhaps sees a role for manufacturing *still*. Further, he brushes aside the deadly noise over labour laws being obstructive of employment growth potential in the manufacturing sector as firms in this sector are far more worried about many other issues including corruption.

Though India has ratified the Employment Policy Convention, 1964 (No. 122) Convention on 17 November 1998, it has not still framed a National Employment Policy (NEP) even as its poorer neighbours have done so. However, the Government of India has done some *piecemeal* job of covering some segments of employment policy like focusing on skill development via National Skill Development and Entrepreneurship Policy, 2015. The Niti Aayog has outlined a ‘perspective’ for an employment policy and not a policy (see Sanghi and Khurana [Undated](#)). These tell the tale of governance and policy failures more eloquently than several passages of articulation! He offers a ‘complex set of policies’ to correct the lower female labour force participation rate which focus on six pillars, viz. inclusive growth and job creation, education and skills development, support for reducing the time burden, transport and infrastructure, legal rights and protection and measurement and bats for active labour market policy. I leave it to the readers to get the details of these from his chapter. According to him, India *must* do two things, viz. prioritize employment as an objective in economic and social policies and frame employment policy in consultation with social partners (social dialogue).

Labour and Industrial relations laws have been perceived to be contributing to instability in the IRS (Ramaswamy 1988) and impede free functioning of the labour market, and scholars, critics, trade unions and employers and others have called for reforms of these laws for long. In fact, industrial and labour violence that Ramaswamy notes in his chapter from Pricol to Maruti Suzuki in popular memories could have been avoided if the long-pending reforms of labour laws would have been made,

for example, by providing for compulsory recognition of trade unions for collective bargaining and not the ones that employers are making in the era of globalization like amendments to labour laws to provide for easy hire and fire. This is what Shyam Sundar argues in his chapter in the book. Three reform issues, viz. trade union recognition, reform of compulsory adjudication machinery and providing place of prominence to collective bargaining (existent from the command economy period onwards), and labour flexibility reforms from the employers have proved to be tough reform measures for the central government to act upon for various reasons.

In Chap. 21, Shyam Sundar argues that on each of these reform issues, though the central government has shown commitment to implement it, it has been cleverly avoiding effecting suitable amendments for reasons which benefit the political executive and/or its allies and their labour wings. Put simply, political rationality, that is, protection and advancement of political interests of the ruling party or parties/allies which include primarily the electoral gains/losses and the interests of party/parties' labour wings is far more important than advancement of the efficiency of the IRS or the labour market (institutional or economic rationality).

For a long time, the Congress party had been in power at the Centre, and during its rule it did not wish to jeopardize the organizational gains made by its labour wing, the Indian National Trade Union Congress (INTUC), by enacting trade union recognition laws. The other ruling parties are no different from Congress. They did not and do not want to do anything related to any aspect of trade union recognition for fear of hurting their respective labour organization's following and, worse, apprehend the possibility of the flourishing of Left-based unions. There has been a stalemate in the union movement over the choice of method of determination of bargaining agent, viz. membership verification or check-off or secret ballot. This indeterminacy (lack of consensus) in the union movement helped Congress or any ruling party to refrain from enacting a law providing for compulsory union recognition, as the government has taken an official position of 'waiting for a consensus', which it damn well knows would not arise! Further, in the case of trade union recognition, any ruling party (either at the central or the state levels) knows that ambiguity and absence of a clear labour law on it will help the government to keep primarily the Communists at bay and protect its labour wings. The fear or apprehension on the part of ruling with regard to domination or usurpation of political and labour movement by Communists has been historical (see Shyam Sundar 2005). So the central government has left it

to the state governments to enact laws regarding union recognition, while the central TU Act to this date does not provide for compulsory union recognition. If the central government has little interest in providing for union recognition then collective bargaining cannot flourish as employers can negotiate with any trade union, representative or otherwise and even with non-union bodies like workers' committee (often formed with the blessings of the management). As globalization has sought to weaken collective institutions and firms aggressively employ flexible labour, collective bargaining, even if it is legally mandated, loses its relevance. What is the point of a collective agreement in an organization which employs a majority of its workers as temporary or as contract labour? The collective agreement will be mostly covering permanent and directly employed workers, who are fewer in number. So trade unions do not support reforms to weaken compulsory adjudication by quasi-judicial bodies like Labour/Industrial Courts and Tribunals even though compulsory adjudication processes are often dilatory and expensive. The logic of the trade unions is that the judicial system may serve workers' interests better than a weakened collective bargaining system. Collective bargaining is weakened because it excludes more than it includes. The government, during the command economy, assured that as the IRS matures and the negotiating parties become strong over the decades, governance in the IRS will move away from compulsory adjudication to collective bargaining. However, this dynamic systemic movement remains stalled.

In the case of labour flexibility demands, the central government, irrespective of the party in power, faced with strident and rather frequent country-wide strikes and labour agitations did not want to sully its political image and hurt its political fortunes by making amendments to the central labour laws concerned. It made noises of reforms and, in fact, instituted several intellectual bodies including the SNCL (2002) but carefully refrained from effecting the amendments providing for labour flexibility. Its official position has been that it is committed to reform labour laws at the national level but will consult the stakeholders—primarily labour—before doing so. There cannot be better political positioning than this as this shifts the blame for any adverse economic consequences on labour! In the case of both the reform issues, the central government felt it safer to delegate reform mandate to the state governments where political and trade union organizational solidarities are relatively weaker than at the national level. As a result, the political and other dynamics have left the national-level laws intact for long, and these dynamics have to be understood in any discourse on labour law reforms.

8 FINAL OBSERVATIONS

Neoliberal globalization has in a dominant sense adversely impacted the labour market and the IRS. But very interestingly, the contributors hold labour institutions (Papola and Rodgers 1992 describe them widely so as to include formal laws to trade unions to state agencies to informal norms and values) accountable for informality and precarity though their reasoning could be different as they lean on neoclassical or institutional or labourist perspective. The macro- and the micro-studies in Sects. 1 and 2 have vividly, eloquently and comprehensively brought out precarity, informality and contractization dimensions of work, on the one hand, and recorded even with disdain the governance and managerial deficits. The jobs debate at present is so sadly enmeshed in terms of numbers of jobs and the sources of production of such numbers even as precarity and informality are present like an elephant in the room! A few of the chapters highlight the vexatious problems of identity crisis (workers or not) and regulatory failures with respect to either traditional occupations or emerging industries. While these are important, the role of labour institutions which impede efficiency even as defined by neo-classical theory cannot be brushed aside. The institutional argument is clearly reflected in SDG No. 8, viz. Decent Work and Economic Growth, which perhaps reflects and even calls for a balance between Market and Labour Institutions and one which Prof. Lalit Deshpande would perhaps endorse!

These debates are critical not only to academics but to the very ‘actors’ involved in the labour market and the IRS. At the same time, in the wake of rising and pervasive inequalities in the post-reform period, Kannan (2017) labels the ‘labour question’ as a ‘social question’ in neoliberal India. History is imitated though in an ironical sense as labour *was* a social question during the initial stages of industrial revolution as the working class indulged in labour and social upheavals which bothered the ruling classes (Kaufman 2007; Veerchand 2014), and now also it *is* a social question, thanks to the existence and perpetuation of social inequities and rising precaritization in the labour market. The former were struggles for possession (acquiring) of rights in the distant past and the labouring and social classes are in the contemporary period fighting against dispossession of labour and social rights, and in that sense the Labour Question continues through Time and Space as a ‘Social Question’.

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PART I

Mapping and Understanding
Informal Labour



What Do We Know About Firms in the Informal Manufacturing Sector in India?

Rajesh Raj S. N. and Kunal Sen

I INTRODUCTION

One of the most remarkable features of India's economic development in the past two decades is that in spite of rapid economic growth, the informal sector has not shown signs of withering away. While the informal sector tends to dominate in the services sector of many other low-income countries, in India, we have a large informal presence in the manufacturing sector as well. The informal manufacturing landscape in India is populated by both household enterprises, called own account manufacturing enterprises (OAMES) in the Indian context, and non-household enterprises. The

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OAMEs use only family labour and are often single-person establishments. The non-household enterprises are those that employ at least one hired labour and are further classified into two, non-directory manufacturing establishments (NDMEs) and directory manufacturing establishments (DMEs), based on the number of workers they employ. While NDMEs employ five or less workers, DMEs employ six or more workers.

In this chapter, we ask what we know about the informal manufacturing, using the most recent representative data on informal manufacturing firms available so far. We proceed as follows. We first look at the evolution of firm size across the three different categories of firms in the Indian informal manufacturing sector—OAMEs, NDMEs and DMEs—first in the aggregate and then by state and industry. We then look at firm size and productivity by different sets of firms' characteristics (location of the firm, age and gender and social group of the owner) to see if there are observable differences in firm size and productivity across firms of different characteristics. One important concern about firms in the informal sector is that they pay less wages to their workers than firms in the formal sector. We capture this by examining the differences in wages paid to workers by specific characteristics of firms—by firm type, ownership, social group of owner and firm size. Throughout this chapter, we apply frequency weights provided by the National Sample Survey Organization (NSSO) to compute descriptive statistics, which is often advocated when estimating population averages from the sample data (Solon et al. 2013). This study overlaps with our earlier work (Raj and Sen 2016). But in this chapter, we have used the most recent data on the informal sector to see how those earlier findings have changed.

We use unit-rich unit record data on the informal sector firms drawn from the NSSO surveys on the unorganized manufacturing sector for four years, 2000–01, 2005–06, 2010–11 and 2015–16. We focus on these years as the Indian economy, partly due to the availability of firm-level data and partly because our interest is in understanding the behaviour of the Indian informal manufacturing sector in the post-reform period. The Indian government has enacted a far-reaching set of economic reforms since 1991. These reforms led to greater integration of the Indian economy with the rest of the world, especially its manufacturing sector. Given the importance of the informal sector in India's economy, there has been relatively little scholarship on informal firms in an era of globalization (the exception is Raj and Sen 2016). This chapter attempts to address this limitation.

The NSSO surveys collect information on various aspects of the enterprises/units in the informal manufacturing sector quinquennially, using a stratified random sampling procedure. These are nationwide enterprise-level

surveys covering all the Indian states and Union Territories (UTs) and are stratified by district. Since most informal enterprises are not registered with any government authority, the NSSO uses a block enumeration approach to ensure a representative sample of the informal sector in every district.

2 EVOLUTION OF FIRM SIZE AND FIRM PRODUCTIVITY

This section examines the trends in size and labour productivity in the Indian informal manufacturing sector. First, we look at the temporal variations in average firm size and labour productivity across different enterprise types—OAME, NDME and DME. We then pore over these variations at the state and industry levels. Finally, we examine the variations in firm size and firm labour productivity by ownership and location of the firm.

2.1 *Aggregate Trends*

Using number of workers as the proxy for firm size, we present the trends in average firm size for all the three enterprise types for the periods from 2000–01 to 2015–16, in Fig. 2.1. Our estimates suggest a consistent but marginal decline in the size of an average OAME over time. An average

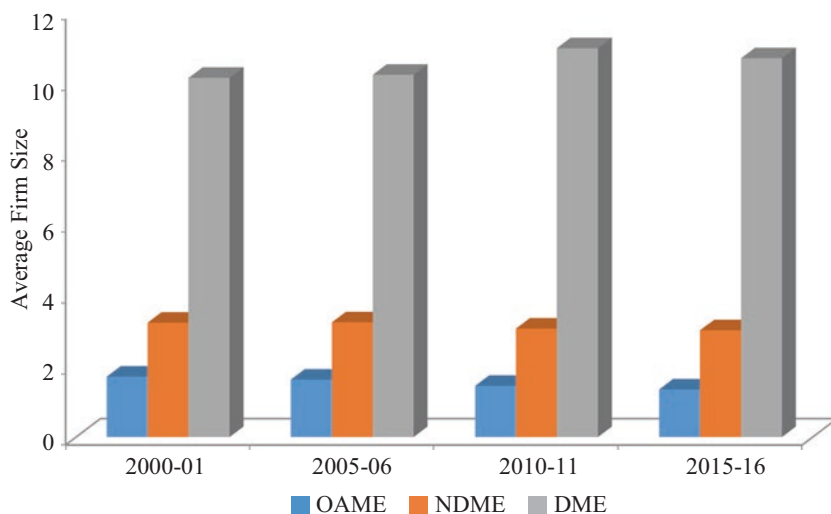


Fig. 2.1 Firm size by enterprise type, 2000–01 to 2015–16. Source: Authors' estimates

NDME too witnessed a steady but marginal drop in its size after a slight increase between 2000–01 and 2005–06. The DMEs, on the other hand, saw their average size increasing between 2000–01 and 2015–16. However, after a steady expansion of size in the 2000s, there was a marginal decline in the size of an average DME in the last quinquennium of our study period. In terms of size, the DMEs are more than three times larger than the NDMEs, which are double the size of the OAMEs.

Our rural-urban comparison of average firm size mirrors the pattern that we observed at the aggregate level (Fig. 2.2). However, these changes are more marked for firms in the rural areas than in the urban areas. For instance, the rural OAMEs and rural NDMEs exhibited a much larger decline in their average size as compared to their counterparts in urban areas. Our computations show that the size of an average OAME and an average DME in the rural areas declined 22 per cent and 9 per cent, respectively, compared to a decline of 17 per cent and 6 per cent, respectively, for their urban counterparts. Perhaps the most striking finding from our analy-

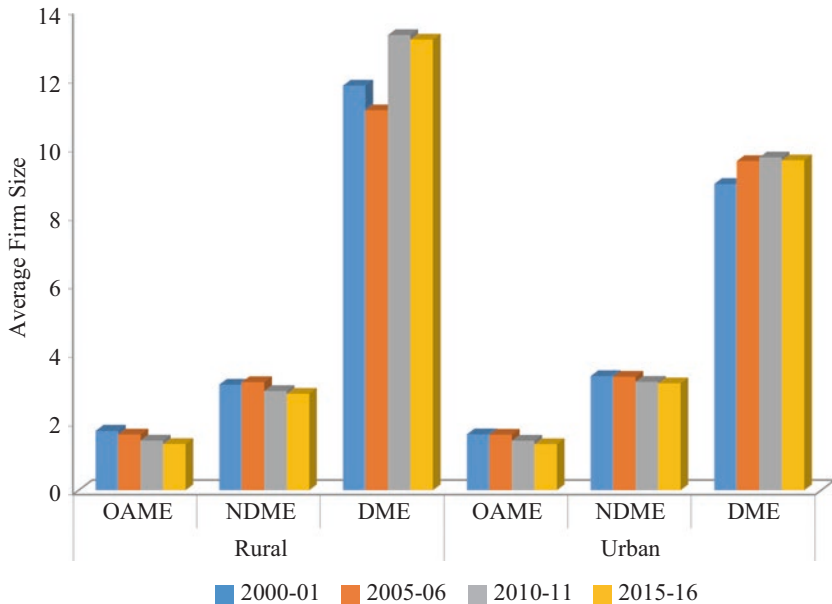


Fig. 2.2 Firm size by enterprise type and sector, 2000–01 to 2015–16. Source: Authors' estimates

sis is that the rural DMEs are larger in size than the urban DMEs. We had expected urban firms to be larger, given that products made by these informal firms would have a bigger market due to the higher population density in these areas. Additionally, the rural DMEs showed a faster growth in size compared to their counterparts in urban areas. While an average DME in rural areas grew by 11 per cent, the corresponding figure for the urban DME was 7 per cent. In absolute terms, the number of workers employed by an average rural DME has increased from 11 workers in 2000–01 to 13 workers in 2015–16. On the other hand, the average urban DME witnessed an expansion in size from nine workers in 2000–01 to ten workers in 2015–16. This minimal increase in the size of urban DMEs explains why there is only a marginal rise in the size of the average DME in the combined rural and urban sample over the period from 2000–01 to 2015–16.

When we look at the labour productivity levels across different size categories (Fig. 2.3), we notice a consistent increase in productivity for all enterprise types over the period from 2000–01 to 2015–16 (Fig. 2.4). As expected, average labour productivity levels are found to be the highest among the DMEs, followed by the NDMEs and the OAMEs. This difference in productivity levels that we observed at the aggregate level is clearly evident for urban firms but not for rural firms. While the OAMEs are the least productive firms in rural areas, the NDMEs and the DMEs are equally productive.

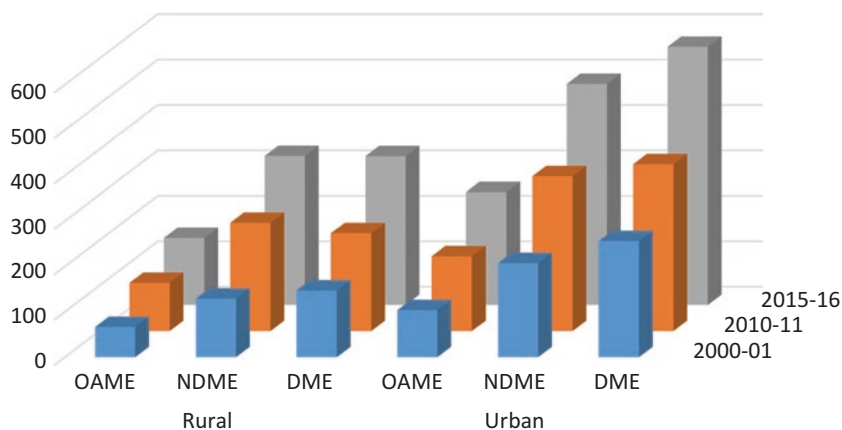


Fig. 2.3 Labour productivity by enterprise type and sector. Source: Authors' estimates

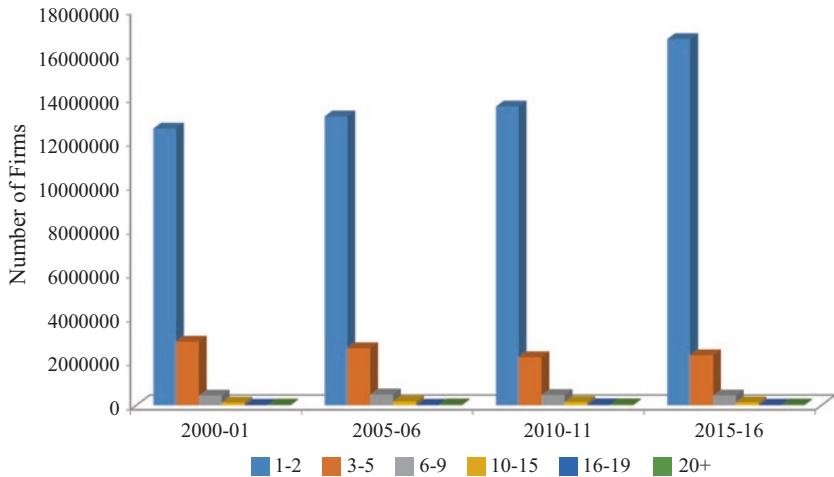


Fig. 2.4 Histogram of frequency of firms for different size classes. Source: Authors' estimates

We next examine histograms of frequency of firms and firm productivity across different size classes, for the years 2000–01, 2005–06, 2010–11 and 2015–16. To do this, we classify the firms into six size categories based on the number of workers employed by them. They are firms with 1–2 workers, those with 3–5 workers, those with 6–9 workers, those with 10–15 workers, firms with 16–19 workers and those firms that employ 20 or more workers. Over the period from 2000–01 to 2015–16, we notice a consistent increase in the number of firms in the smallest size category (1–2 workers, which are mostly OAMEs) and the largest size categories (16–19 and 20 and above). In contrast, the intermediate size classes (3–5 size category, which are mostly the NDMEs, 6–9 size category and 10–15 size category) registered a considerable decline in the number of firms. On the other hand, the productivity seems to be higher among the firms in the intermediate classes as compared to those in the lower and upper size categories. This inverted-U-shaped relationship between firm size and labour productivity is evident in all time periods. Figure 2.5 clearly shows that firm productivity increased steadily up to the 10–15 size category and then declined.¹

¹The only exception is 2015–16 period, during which the firms' productivity increased up to the 16–19-size category and then declined.

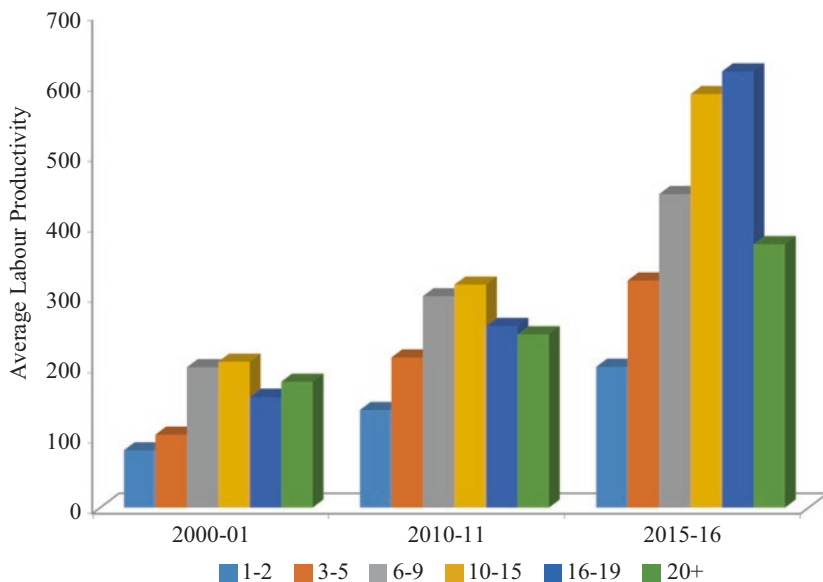


Fig. 2.5 Histogram of firm labour productivity (in '00s) for different size classes, 2000–01, 2010–11 and 2015–16. Source: Authors' estimates

Our discussion on firm size and productivity presents two possible developments occurring simultaneously in the Indian informal manufacturing sector: (a) the absence of transition from family firms to non-family firms with at least one hired worker, as apparent from the shrinking size of an average firm in the informal sector (from 2.15 in 2000–01 to 1.83 in 2015–16) and (b) the absence of upward progression of firms from the informal sector to the formal sector, as evident from the accumulation of firms in the border categories (at the unorganized/organized firm threshold—which is 10 workers for firms with power and 20 workers without power). Evidently, the transition within the non-household segment of the informal sector continues till they reach the unorganized/organized firm-size threshold as defined by the Factories Act, at which point few firms may be making the transition to the formal/organized sector. We explore this point further by combining the microdata from Annual Survey of Industries (ASI) with that from National Sample Survey Office's surveys on unorganized manufacturing sector so that we have a continuum of firms from the very smallest (except the household enterprises) to the very

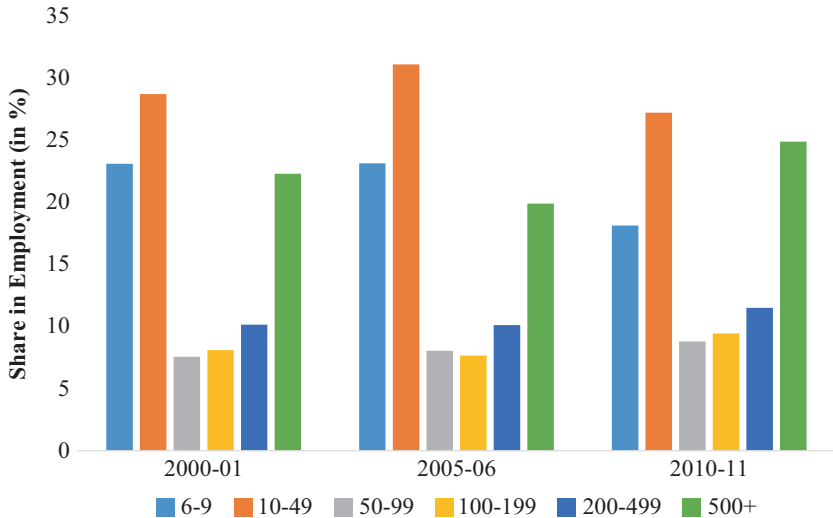


Fig. 2.6 Employment by size groups in manufacturing firms in India. Source: Authors' computations based on ASI and NSSO data. Note: Category 6–9 stands for firms with 6 to 9 workers, category 10–49 stands for firms with 10 to 49 workers and other categories have to be understood similarly

largest. To be specific, we include informal sector firms with six to nine workers that employ mostly hired labour with the firms in the formal sector. Evidence from the merged data set lends support to our conjecture that very few small firms make the transition to larger firms. This is readily apparent from the firm size distribution in Fig. 2.6, which points to the presence of a dualistic structure with a bipolar distribution in firm size distribution in Indian manufacturing. Two prominent modes, one on the left (represented by 6–9 and 10–49 categories) and one on the right (represented by 500 and above) side of the employment distribution, with a striking trench in the share of employment in the intermediate size categories, from 50–499 workers, are noticed. This phenomenon, commonly referred to in the literature as ‘missing middle’, characterizes the presence of large number of small firms, some large firms, but very few medium-sized firms in Indian manufacturing. We also find that this pattern remains more or less unaltered during the ten-year period between 2000–01 and 2010–11. Evidence also points to the substantial economic distance between small and large firms in India. As evident from Fig. 2.7,

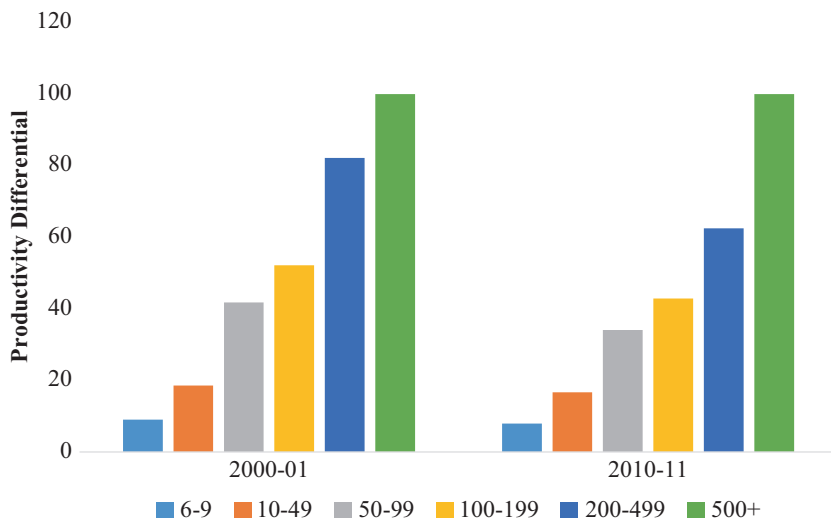


Fig. 2.7 Labour productivity differential by size groups (labour productivity of 500+ = 100). Source: Authors' computations based on ASI and NSSO data. Note: Category 1–5 stands for firms with 1 to 5 workers, category 6–9 stands for firms with 6 to 9 workers and other categories have to be understood similarly

the firms in the 500+ category are about 13 times more productive than firms in the 6–9-size category in 2010–11. Moreover, the gap in productivity has widened between 2000–01 and 2010–11, from 1:11 to 1:13. On the whole, we notice two significant characteristics of manufacturing sector in India: (a) the limited vertical progression of firms within the informal sector, from the household segment to the non-household segment and (b) the clustering of firms in the borderline categories, explaining the weak graduation of firms from large informal firms to formal sector firms. Our preliminary evidence also show why the presence of missing middle is a drag on the growth and productivity of Indian manufacturing sector. Though there are some sporadic attempts to locate the factors that might explain the presence of missing middle in Indian manufacturing, these are mostly suggestive and lack empirical evidence. Further research is needed to establish the relative importance of these factors in influencing limited firm transition, which is, however, beyond the scope of this study.

3 STATE AND INDUSTRY DIFFERENCES IN FIRM SIZE AND PRODUCTIVITY

The changes in the distribution of firm size and productivity at the industry and state levels are captured in this section. For brevity, we confine our analysis to the latest two time periods, 2010–11 and 2015–16. In line with the all-India trends, the average firm size has declined in most states, and it is evident across all the three enterprise types (Table 2.1). The OAMEs contracted in size in majority of the states—about four-fifth of the states witnessed shrinking OAMEs. The NDMEs and DMEs also declined in size in 21 of 35 states. The OAMEs, on average, are larger in size in the states of Uttar Pradesh, Odisha and Madhya Pradesh; in all these states, they have also shrunk in size. The biggest NDMEs, in terms of average size, are in Gujarat and Delhi. These too have witnessed size contraction. The biggest DMEs, by average size, are in the states of Uttarakhand, Assam, Jharkhand and Uttar Pradesh. In Uttarakhand and Assam, an average DME has expanded in size, while size contraction can be seen in Jharkhand and Uttar Pradesh. In Uttarakhand, an average DME has more than doubled in size: from 9 workers in 2010–11 to 19 workers in 2015–16, while in Assam its size has gone up from 9 workers in 2010–11 to 15 workers in 2015–16. The decline in size for DMEs in Uttar Pradesh was marginal, while in Jharkhand the average size almost halved.

At the industry level, too, we observe a trend similar to that found at the regional level. The average firm size has declined in majority of the industries, and the decline is evident across enterprise types (Table 2.2). The OAMEs experienced size contraction in 14 industries, and the NDMEs and the DMEs in 13 industries. A decline in firm size is reported for all enterprise types in the manufacture of tobacco products, textiles, petroleum products, metal products, electronic goods, furniture, other manufacturing products and repairs. The OAMEs, NDMEs and DMEs exhibited size expansion in beverages, chemicals and machinery goods. The OAMEs are, on average, bigger in size in the manufacture of mineral products, petroleum products and motor vehicles, which are the only industries where OAMEs employ two or more workers. The firm size of an average NDME is the highest in industries producing pharmaceuticals, rubber and plastics and mineral products. As for DMEs, the average number of workers is substantially higher in the manufacture of mineral products. An average DME in the mineral product industry employs about 19 workers. DMEs in other manufacturing products come next by employing, on average, about 14 workers each.

Table 2.1 Firm size by state, enterprise type and year

<i>State</i>	<i>2010–11</i>			<i>2015–16</i>		
	<i>OAME</i>	<i>NDME</i>	<i>DME</i>	<i>OAME</i>	<i>NDME</i>	<i>DME</i>
Jammu and Kashmir	1.24	2.80	8.57	1.17	2.55	11.17
Himachal Pradesh	1.34	2.83	9.01	1.15	2.75	8.47
Punjab	1.23	2.95	8.11	1.20	2.84	7.76
Chandigarh	1.20	2.91	7.32	1.39	3.08	7.44
Uttarakhand	1.28	2.70	9.84	1.21	2.77	19.90
Haryana	1.37	2.93	17.09	1.20	3.01	13.48
Delhi	1.52	3.30	8.77	1.40	3.23	9.88
Rajasthan	1.48	3.05	9.05	1.33	3.06	9.14
Uttar Pradesh	1.73	3.11	15.10	1.63	3.08	14.61
Bihar	1.50	2.79	8.16	1.40	2.63	9.94
Sikkim	1.35	2.93	68.91	1.12	2.84	7.65
Arunachal Pradesh	1.42	2.88	12.68	1.50	2.54	8.14
Nagaland	1.14	2.66	13.95	1.24	3.32	8.52
Manipur	1.34	3.17	13.62	1.29	2.97	9.57
Mizoram	1.41	2.98	8.54	1.22	2.82	7.08
Tripura	1.43	2.73	7.51	1.17	1.96	8.23
Meghalaya	1.59	2.42	10.40	1.39	2.47	10.02
Assam	1.36	2.70	9.17	1.27	2.77	15.52
West Bengal	1.36	3.03	11.49	1.35	3.05	11.24
Jharkhand	1.56	2.32	26.38	1.35	2.84	15.47
Odisha	1.89	2.62	11.46	1.58	2.77	10.27
Chhattisgarh	1.77	3.08	9.36	1.72	3.01	13.61
Madhya Pradesh	1.50	3.02	10.06	1.49	2.91	9.09
Gujarat	1.36	3.40	11.50	1.23	3.35	11.65
Daman and Diu	1.17	2.84	7.87	1.27	2.79	8.94
Dadra and Nagar Haveli	1.54	3.13	9.31	1.15	3.30	7.85
Maharashtra	1.40	3.18	10.10	1.28	3.12	10.06
Andhra Pradesh	1.36	3.09	9.47	1.23	3.13	8.10
Karnataka	1.28	3.11	9.78	1.28	3.02	10.14
Goa	1.07	2.74	7.48	1.27	2.94	7.42
Lakshadweep	2.75	2.72	–	1.00	2.01	7.00
Kerala	1.22	3.01	9.27	1.23	2.81	9.41
Tamil Nadu	1.28	3.13	10.43	1.25	3.04	10.38
Puducherry	1.33	2.97	10.06	1.08	2.74	10.14
Andaman and Nicobar Islands	1.35	3.30	8.62	1.54	3.19	8.29

Source: Authors' estimates

Table 2.2 Firm size by industry, enterprise type and year

<i>Industry</i>	<i>2010–11</i>			<i>2015–16</i>		
	<i>OAME</i>	<i>NDME</i>	<i>DME</i>	<i>OAME</i>	<i>NDME</i>	<i>DME</i>
Food products	1.60	2.79	9.03	1.58	2.83	8.87
Beverages	1.53	2.61	8.52	1.56	3.12	9.32
Tobacco products	1.33	3.15	11.74	1.18	2.68	9.31
Textiles	1.65	3.48	9.48	1.51	3.46	9.12
Wearing apparel	1.19	2.87	9.81	1.13	2.87	10.18
Leather products	1.78	3.61	8.88	1.86	3.40	10.44
Wood products	1.57	3.03	7.76	1.57	2.98	8.14
Paper products	1.46	3.35	9.36	1.32	3.44	9.49
Media reproduction	1.57	3.13	8.83	1.43	3.13	8.74
Petroleum products	3.67	4.48	9.33	2.07	3.11	8.13
Chemicals	1.40	3.33	9.38	1.41	3.48	10.24
Pharmaceuticals	1.46	3.55	6.89	1.46	3.60	7.12
Rubber and plastics	1.52	3.48	10.81	1.32	3.56	10.27
Mineral products	2.16	3.59	18.39	2.36	3.51	18.86
Basic metals	1.33	3.08	9.41	1.81	3.39	7.32
Metal products	1.50	3.24	9.30	1.42	3.04	8.31
Electronics and opticals	1.54	3.57	10.57	1.19	2.47	8.40
Electrical equipment	1.33	3.35	10.05	1.38	3.25	10.55
Machinery	1.34	3.31	8.97	1.89	3.43	11.68
Motor vehicles	1.98	3.33	9.75	2.06	3.25	8.49
Other transports	1.93	3.65	8.47	1.05	2.97	8.78
Furniture	1.36	2.96	7.98	1.34	2.86	7.87
Other manufacturing	1.41	2.98	14.63	1.39	2.94	13.99
Repairs	1.35	2.88	7.43	1.18	2.80	7.33

Source: Authors' estimates

Note: OAME, NDME, DME—see the text for their respective expansions

Do substantial economic differences between firms across industries, states and enterprise types exist over time? We investigate this in Tables 2.3 and 2.4, which report inter-state and inter-industry variations in labour productivity across enterprise types, over time. As expected, barring a very few cases, all industries and states have witnessed a significant surge in productivity levels between 2010–11 and 2015–16. The increase in productivity is visible across all enterprise types. Our evidence also points to the existence of considerable regional-level variations in productivity levels. At the state level, the productivity levels are found to be the lowest in West Bengal and the highest in Delhi for OAMEs. In the case of NDMEs, Delhi and

Table 2.3 Average labour productivity by state, enterprise type and year (in 2000s)

<i>State</i>	<i>2010–11</i>			<i>2015–16</i>		
	<i>OAME</i>	<i>NDME</i>	<i>DME</i>	<i>OAME</i>	<i>NDME</i>	<i>DME</i>
Jammu and Kashmir	210	319	320	297	446	521
Himachal Pradesh	148	339	391	216	419	753
Punjab	191	305	297	329	473	527
Chandigarh	164	419	484	609	592	654
Uttarakhand	184	270	351	332	472	445
Haryana	260	385	584	369	520	633
Delhi	364	453	404	651	696	687
Rajasthan	183	373	398	255	464	570
Uttar Pradesh	95	203	212	178	308	356
Bihar	190	245	315	299	340	566
Sikkim	221	413	384	196	412	1447
Arunachal Pradesh	569	636	916	552	812	971
Nagaland	157	210	371	226	435	382
Manipur	120	212	213	173	416	298
Mizoram	182	507	300	414	509	630
Tripura	188	249	287	213	195	311
Meghalaya	173	239	345	289	353	343
Assam	213	233	370	293	319	439
West Bengal	83	227	228	99	325	329
Jharkhand	119	196	241	140	323	350
Odisha	84	200	263	125	298	352
Chhattisgarh	99	272	320	162	340	392
Madhya Pradesh	93	201	202	146	372	285
Gujarat	151	363	342	281	657	749
Daman and Diu	127	396	390	257	437	568
Dadra and Nagar Haveli	198	377	626	141	427	367
Maharashtra	169	406	371	247	564	607
Andhra Pradesh	134	308	170	157	385	260
Karnataka	139	354	386	215	476	645
Goa	308	402	1947	610	418	692
Lakshadweep	119	361	–	503	473	471
Kerala	152	411	406	214	557	534
Tamil Nadu	151	335	330	192	454	469
Puducherry	126	294	290	270	487	423
Andaman and Nicobar Islands	133	568	602	222	546	746

Source: Authors' estimates

Table 2.4 Average labour productivity by industry, enterprise type and year (in 2000s)

<i>Industry</i>	<i>2010–11</i>			<i>2015–16</i>		
	<i>OAME</i>	<i>NDME</i>	<i>DME</i>	<i>OAME</i>	<i>NDME</i>	<i>DME</i>
Food products	184	279	250	244	410	333
Beverages	101	273	304	117	388	481
Tobacco products	57	286	123	84	224	259
Textiles	107	258	300	137	445	464
Wearing apparel	136	249	259	197	362	444
Leather products	195	243	244	262	321	455
Wood products	127	311	366	157	426	548
Paper products	93	334	326	74	392	454
Media reproduction	222	351	564	372	491	588
Petroleum products	93	370	197	212	415	267
Chemicals	65	512	174	82	402	449
Pharmaceuticals	224	244	456	154	729	515
Rubber and plastics	139	466	323	112	552	713
Mineral products	103	272	234	120	381	391
Basic metals	177	408	415	402	477	509
Metal products	193	372	468	376	485	562
Electronics and opticals	293	375	487	647	459	845
Electrical equipment	343	398	338	348	607	677
Machinery	240	601	466	273	1105	1019
Motor vehicles	374	486	549	403	565	573
Other transports	226	420	557	321	728	777
Furniture	223	332	377	351	436	501
Other manufacturing	181	350	260	301	502	479
Repairs	234	367	388	442	422	495

Source: Authors' estimates

Note: OAME, NDME and DME—see the text for their respective expansions

Gujarat reported the highest productivity levels and Odisha and Uttar Pradesh reported the lowest. The DMEs are relatively more productive in Gujarat and Delhi and less productive in Madhya Pradesh and West Bengal. For instance, our computations suggest that a DME operating in Gujarat is more than two times productive than an average DME from Madhya Pradesh. There are substantial industry-level variations in productivity too (Table 2.4). In the case of OAMEs, labour productivity ranged from 74 in paper products to 647 in the manufacture of electronic products. For OAMEs, it varied from a lowest figure of 224 for tobacco

products to a highest figure of 1105 for machinery. When it comes to DMEs, the output per worker is highest in the manufacture of machinery goods and the highest in the manufacture of tobacco products. On the whole, we find that there has been a substantial increase in productivity across industries and regions over time in the informal manufacturing sector in India. Alongside, we also observe that the economic differences between sectors and regions have also widened during this period.

4 FIRM SIZE AND OWNERSHIP

We explore the difference in firm size across different ownership categories in this section.² Three ownership categories of firms are specified: Proprietary (Male), Proprietary (Female) and Partnership.³ In proprietary firms, an individual is the sole owner of the enterprise, and they are mostly operated from the household. We classify these firms further into two based on the gender of the owner: Proprietary (Male) if the proprietary firms are male-owned and Proprietary (Female) if they are female-owned. The NSSO defines partnership as the “relation between persons who have agreed to share the profits of a business carried on by all or any one of them acting for all” (NSSO 2002). It is very much possible that the partners may be drawn from the same household or from different households. In our case, we pool them together into one category and call them ‘Partnership’.

The main objective here is to examine whether the average firm size varies across the three ownership categories defined above. We first capture the difference in firm size across the three enterprise types in each ownership category (Fig. 2.8). As expected, the size of an average OAME, NDME and DME is higher among the partnership firms. However, our estimates do not suggest a substantial difference in firm size between male-owned and female-owned proprietary firms. Whether an OAME, an NDME or a DME, the proprietary firm run by a female entrepreneur is marginally smaller in size as compared to a male-owned enterprise in the same category. Predictably, the argument that ‘the larger the firm size, higher will be the productivity’ survives the scrutiny of our analysis. Among all the ownership categories, the DMEs are the most productive,

²We did not find much difference in the pattern over time hence prefer to present the average from 2010–11 to 2015–16 for the figures that follow.

³Note that information on other forms of ownership (such as public limited companies) is not available in the data sets.

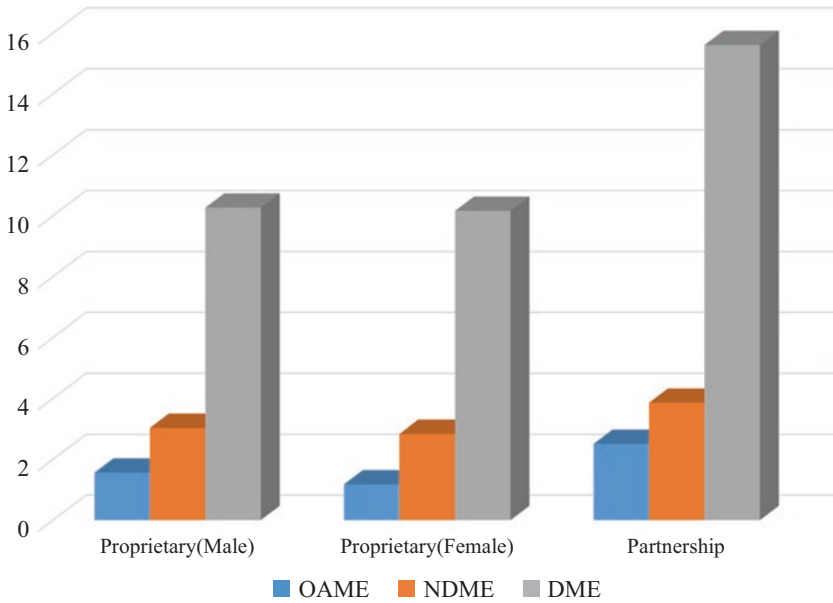


Fig. 2.8 Firm size by enterprise type and ownership. Source: Authors' estimates

followed by the NDMEs and the OAMEs (Fig. 2.9). A comparison of the ownership categories reveals that the OAMEs and the NDMEs are more productive among male-owned proprietary firms, while the DMEs are more productive among the partnership firms.

The differences in average firm size and productivity for rural and urban firms are also examined for the three ownership categories (Figs. 2.10 and 2.11). The average firm size is the highest in firms that operate on a partnership basis in both rural and urban areas. To be specific, the partnership firms are nearly twice larger than the proprietary firms owned by males—the next highest in firm size (Fig. 2.10). Strikingly, urban partnership firms are smaller than their counterparts in rural areas. We find that the huge difference in firm size between urban and rural DMEs explain the overall rural-urban firm size differential. According to our estimates, the rural DMEs are, on average, two times bigger than the urban DMEs. As expected, the urban firms are more productive in all ownership categories (Fig. 2.11). A comparison of productivity levels across the three categories,

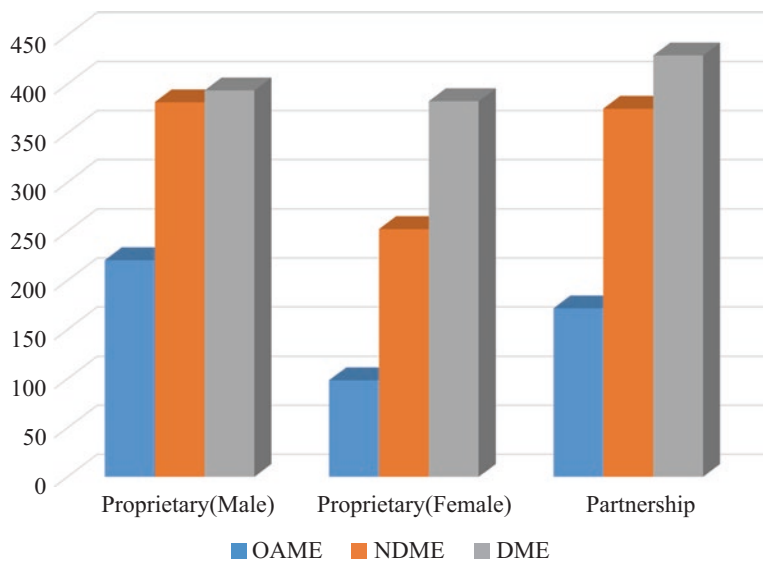


Fig. 2.9 Average labour productivity by enterprise type and ownership. Source: Authors' estimates

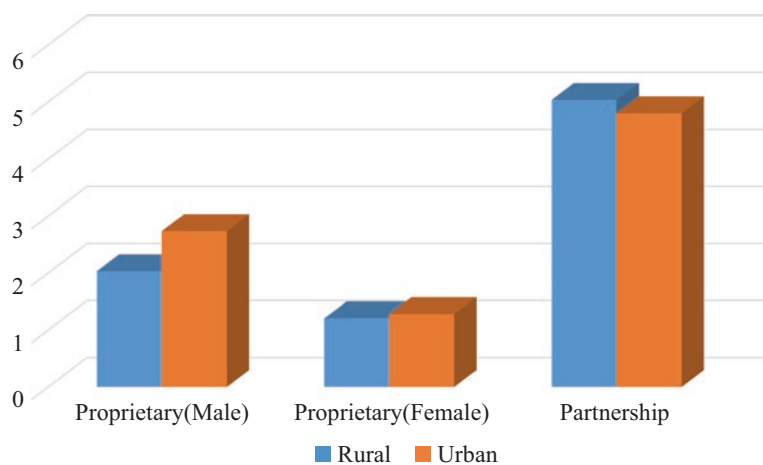


Fig. 2.10 Firm size by sector and ownership. Source: Authors' estimates

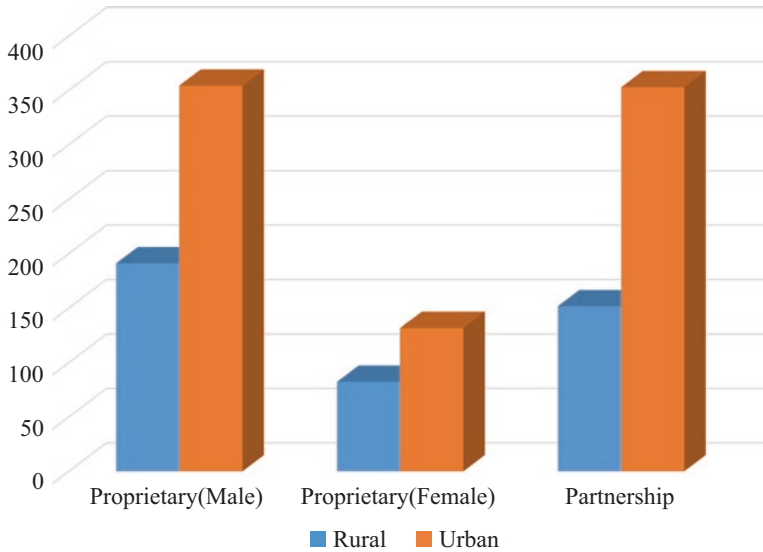


Fig. 2.11 Average labour productivity by sector and ownership. Source: Authors' estimates

however, shows that it is the male-owned proprietary firms that produce more output per worker than the partnership firms and the female-owned proprietary firms. Perhaps the differences in endowments are likely to explain the performance differential between male-owned and female-owned firms. This is clearly evident when we look at the nature of labour input employed by firms run by men and women. Women-owned firms tend to employ far fewer paid workers, operating instead as single-person firms or with unpaid family workers. Available evidence in the literature points to the differences in motivation as the one possible reason for such differences, with male-owned firms driven by growth and profitability motives and female-owned firms by subsistence (Daynard 2015). The presence of paid workers in a firm is taken as an indicator to represent the profitability considerations of an entrepreneur as against the subsistence motive. At the same time, one cannot ignore the role of other factors such as social norms that influence the ability of women entrepreneurs to hire workers and is very important in the context of India. More research and better data are required to better understand the underlying reasons for the observed gap in performance between male-run and female-run firms, and their relative importance in influencing this gap.

5 LOCATION, FIRM SIZE AND PRODUCTIVITY

Does the choice of businesses influence their size and productivity? It is commonly believed that working from home detracts from doing business and hiring workers, lowering firm efficiency and the number of hours a firm normally operates (Amin 2010). In our data set, a majority of firms operate from within the household (72 per cent of firms in our data set), and also without fixed premises and permanent structures. It is argued that firms with fixed premises and permanent structures are likely to be more productive than those working out of temporary structures or Mobile-Street Vendors (Moreno-Monroy et al. 2014). Investment in permanent structures is expected to remove the uncertainty associated with temporary structures from, say, demolition by state agencies or the need to move from place to place in the case of mobile street vendors. Such uncertainties involved in businesses are likely to influence firm size and productivity. The analysis that we carry out next proposes to shed light on these conjectures.

To look at the relationship between location of firm, firm size and productivity, we classify firms into different categories based on the location of the firm. Four categories are defined: (a) firms operating from within the household (Within HH); (b) firms located outside the household premises and own fixed premises and permanent structures (OH-PERM); (c) firms located outside the household premises but have only temporary structures (OH-TEMP); and (d) firms that shift from market to market and street vendors (Mobile-Street Vendors). There is enough evidence in support of the role location plays in influencing firm size (Fig. 2.12). Our findings firmly point to considerable differences in size between firms operating from inside the household premises and those outside the household premises. The average firm size is substantially higher for enterprises that are located outside the household premises and carry out their operation (OH-PERM and OH-TEMP) as opposed to firms that operate from within the household (WithinHH). This is evident across all enterprise types and more apparent among the DMEs. For instance, a DME in the OH-PERM category is 1.25 times larger than a DME in the WithinHH category. However, compared to Mobile-Street Vendors, an average firm in the WithinHH category is substantially bigger in size in all three enterprise types.

Next, we look at the role of location on firm productivity. The evidence that we draw from our analysis produces a mixed result on the relationship between location of the firm and firm productivity. On the one hand,

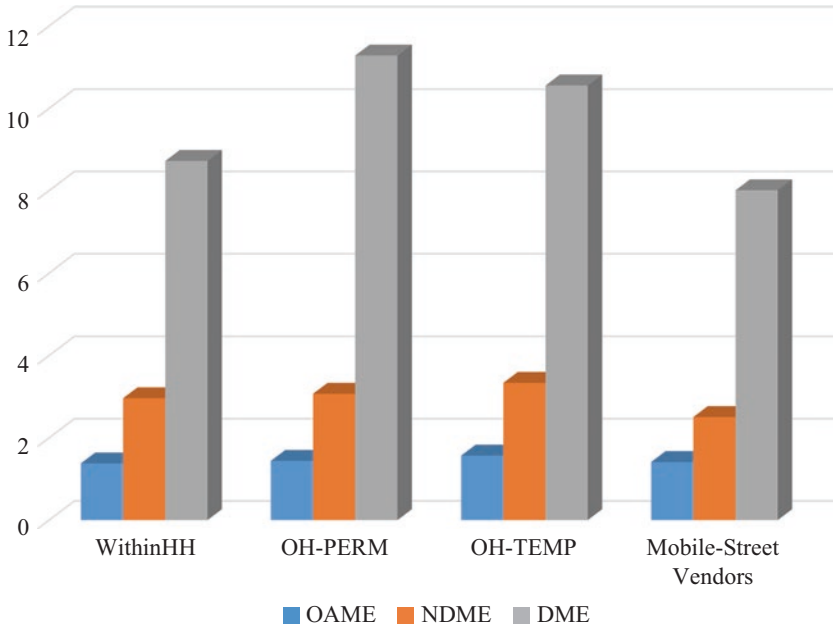


Fig. 2.12 Firm size by enterprise type and location. Source: Authors' estimates

there is enough evidence to suggest that firms that are bigger in size have derived significant productivity gains vis-à-vis small firms (Fig. 2.13). As anticipated, we also find that the firms that are located outside the household premises and owned fixed premises and permanent structures (OH-PERM) are the most productive ones among all the four categories of firms that were identified based on location. The average productivity of OH-PERM category in the OAME, NDME and DME enterprise types is 2.4 times, 1.7 times and 3.6 times higher than the least productive categories, respectively. However, to our surprise, the other category of firms that are located outside the household premises but operating from fixed premises and temporary structures (OH-TEMP) turned out to be the least productive firms. Does this imply that even if the firms operate from outside home, having fixed premises and permanent structure are essential for improving growth and productivity? Our findings fail to confirm this either, as the Mobile-Street Vendors where most firms are without fixed premises, are found to be the second-most productive category of firms across all the three enterprise types. To sum up, our conjecture that work-

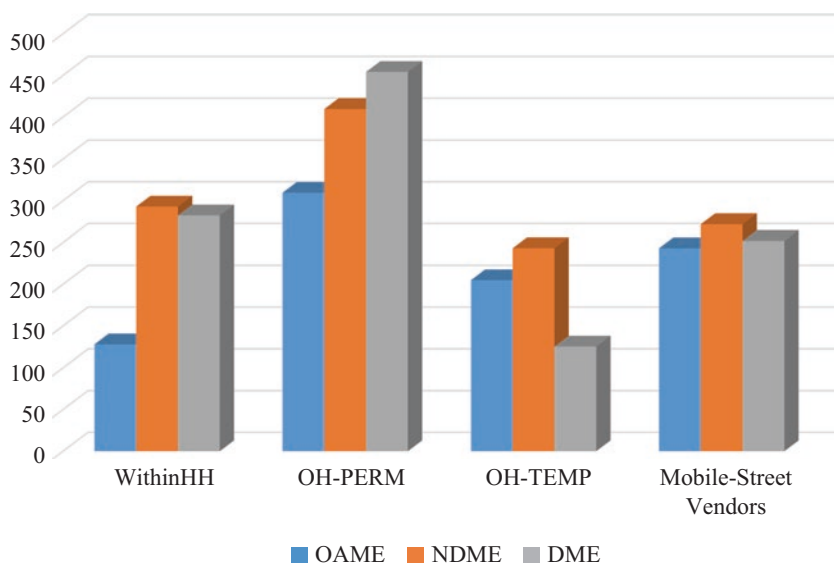


Fig. 2.13 Average labour productivity by enterprise type and location. Source: Authors' estimates

ing within household premises would have detrimental effects on firm growth and productivity is not upheld. Further research may be required to establish the economic benefits of the location choice of small businesses in the informal sector.

We have also investigated whether the effect of location choice of businesses on firm size and productivity is different for rural and urban firms. When we look at the role of location choice on firm size, we fail to detect a clear pattern across the location categories (Fig. 2.14). While urban firms are larger in size in OH-PERM and WithinHH categories, it is the rural firms that are larger in size in OH-TEMP and Mobile-Street Vendors categories. We also notice that urban firms in the OH-PERM category and rural firms in the OH-TEMP category are the largest in terms of size. But when it comes to productivity, a clear pattern is discernible (Fig. 2.15). In all categories, urban firms are more productive than rural firms. As observed for the overall sector, firms in OH-PERM are the most productive ones in rural and urban areas, followed by firms in Mobile-Street Vendors category. Hence, our surmise that working from home is likely to have negative implications on growth and productivity is not confirmed.

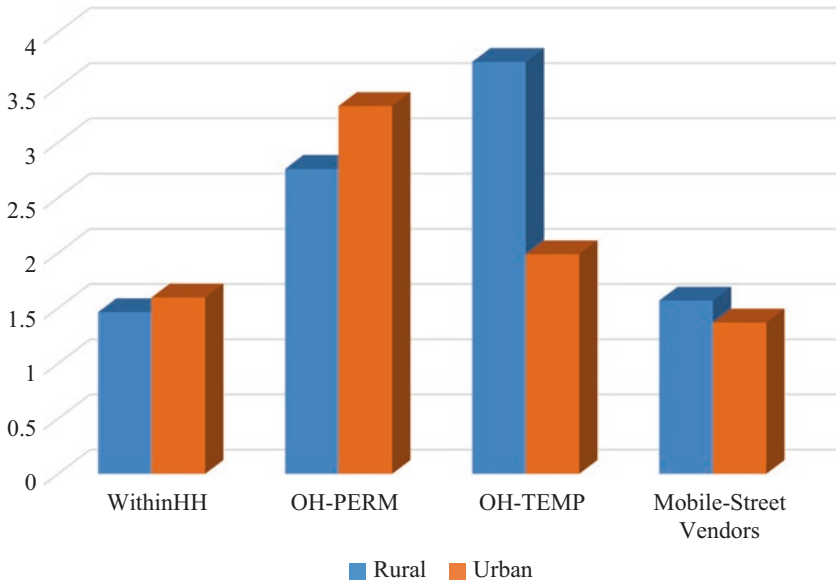


Fig. 2.14 Firm size by sector and location. Source: Authors' estimates

6 SOURCES OF FUNDS

We now look at the sources of external funds for firms in the informal sector. An important feature of the changing financial landscape in India has been the decline in the importance of informal sources of finance over time, which fell from 70.8 per cent in 1971 to 39.6 per cent in 1991 as a share of total debt (Tsai 2004). This has been a consequence of the government requirement to banks to lend to small enterprises and agricultural households as well as the mandated branch expansion policy where the Reserve Bank of India required banks to open branches in under-banked rural and semi-urban areas.⁴ Evidence presented in Table 2.5 also shows that there is less reliance on informal sources of finance by firms in the informal sector, and external funds sourced through institutional agencies appeared as the most common source of finance. In 2015–16, more than half of all loans to OAMEs were derived from institutional

⁴However, Sen and Ghosh (2005) note that the share of lending to small enterprises in total bank lending to priority sectors may have declined over time.

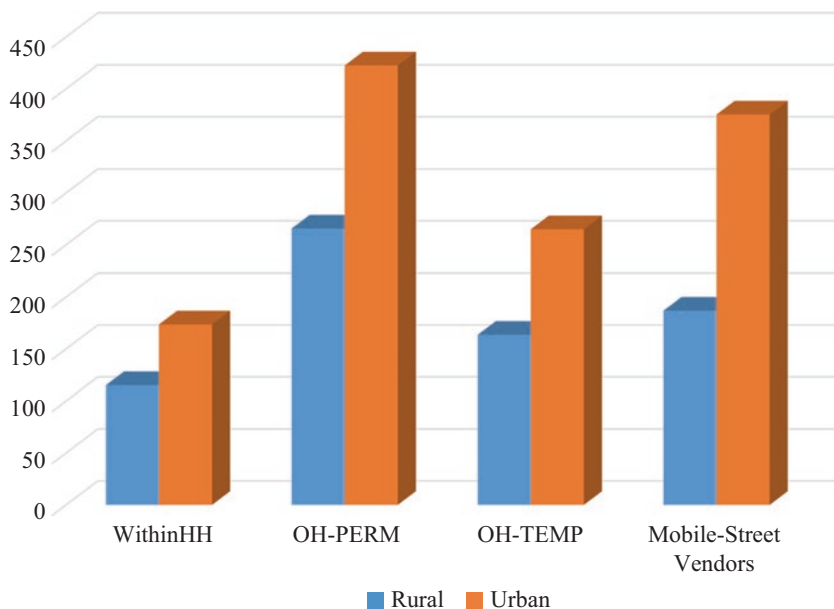


Fig. 2.15 Average labour productivity by sector and location. Source: Authors' estimates

agencies, and the corresponding figure for NDMEs and DMEs was 73.2 per cent and 76.9 per cent, respectively (Table 2.3). Among the institutional sources, a major chunk of borrowing came from commercial banks. Though lesser in magnitude, money lenders still formed an important source of finance for firms in the informal sector, especially for OAMEs. About 22.4 per cent of total borrowings by the OAMEs came from money lenders. Firms have also sourced their finance through friends and relatives; however, the major beneficiary of finance originated through this source was OAMEs. Almost one-fifth of the borrowings for the OAMEs were derived from friends and relatives. On the whole, it can be seen that a significant proportion of external funds for informal firms originated from term-lending institutions such as commercial banks and other institutional agencies.

Table 2.5 Loan share by source and enterprise type, from 2000–01 to 2015–16 (%)

<i>Source of Loan</i>	2000–01			2010–11			2015–16		
	<i>OAME</i>	<i>NDME</i>	<i>DME</i>	<i>OAME</i>	<i>NDME</i>	<i>DME</i>	<i>OAME</i>	<i>NDME</i>	<i>DME</i>
Institutional agencies such as central- and state-level term lending institutions, government and commercial banks	60.4	69.7	70.1	58.1	70.9	73.6	52.0	72.0	75.9
Other institutional agencies	2.3	2.6	4.7	1.5	2.6	0.9	1.7	1.2	1.0
Money lenders	21.0	11.3	9.5	24.4	15.9	11.6	22.4	13.2	9.1
Business partner(s)	0.2	2.3	2.4	0.3	0.3	3.1	0.1	0.3	5.2
Suppliers/contractors	2.6	1.9	2.9	3.6	2.7	1.2	3.8	3.5	1.8
Friends and relatives	12.1	10.8	7.4	10.1	6.5	7.5	18.4	9.4	6.3
Others	1.4	1.4	3.1	2.1	1.0	2.2	1.6	0.4	0.8
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Source: Authors' computations based on NSSO data

Note: (a) Loans advanced by institutions/agencies such as Khadi and Village Industries Commission, Life Insurance Corporation, provident fund and Chit Fund are included under the category 'other institutional agencies'; (b) OAME, NDME and DME (see the text for their respective expansions) stand for own-account manufacturing enterprise, non-directory manufacturing enterprise and directory manufacturing enterprise respectively

7 CAPITAL INTENSITY AND FIRM SIZE

It is argued that the scope for using labour-saving machinery increases with size (Creamer and Bernstein 1954). We examine this in the context of informal firms in India. The evidence available to us supports this argument as we find that the amount of capital employed per unit of labour input increases with the size of the firm. Capital intensity is the highest for DMEs, followed by the NDMEs and the OAMEs (Fig. 2.16). Compared to OAMEs, the capital-labour ratio is 2.2 times higher in the NDMEs and 2.6 times higher in the DMEs in 2015–16. While the OAMEs experienced a 3.3 times increase in capital-labour ratio between 2000–01 and 2015–16, the corresponding increase in the NDMEs and the DMEs were 2.4 times and 2.6 times, respectively. Our analysis yields new insights into the relationship between size and capital intensity when we present the capital-labour ratio for different size classes using a histogram (Fig. 2.17). We find that the relationship between size and capital intensity follows an inverse U-shaped curve. Capital intensity does increase with firm size, but only up to a certain size threshold: beyond it, the capital intensity tends to decline. As is evident from Fig. 2.17, the capital-labour ratio displayed a steady progression up to the 10–15-size category and then declined. What may explain this puzzling relationship between size and labour intensity? We conjecture that as firms become larger in size and come close to the threshold size that would necessitate their registration with the formal authorities under the Factories Act, they are less keen to invest in fixed assets that they would need to do if they wanted to make the transition to the formal sector. We also examine the intensity separately for two components of fixed capital investment: investment in plant and machinery and investment in land and buildings. Our results show that DMEs are more intensive in plant and machinery (Fig. 2.18) and NDMEs more intensive in structure investment (Fig. 2.19). A detailed scrutiny of both components using histograms, however, mirrors the findings observed for overall intensity: rise in intensity up to the 10–15-size category and a decline thereafter. An interesting finding that emerges from the disaggregated analysis is that the share of investment in plant and machinery to total fixed capital investment is considerably lower for firms in the borderline categories as compared to other size categories and to their corresponding share in land and buildings.⁵ This finding is in line with our conjecture that firms that are close to the threshold of size defined by the Factories

⁵For brevity, the histograms of intensity for these two components are not presented in the chapter but are available from authors upon request.

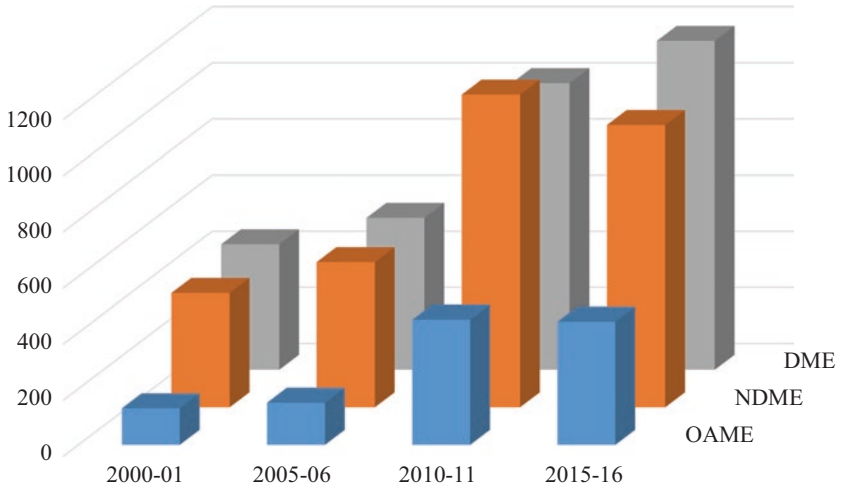


Fig. 2.16 Capital-labour ratio by enterprise type and year (in 00s). Source: Authors' estimates

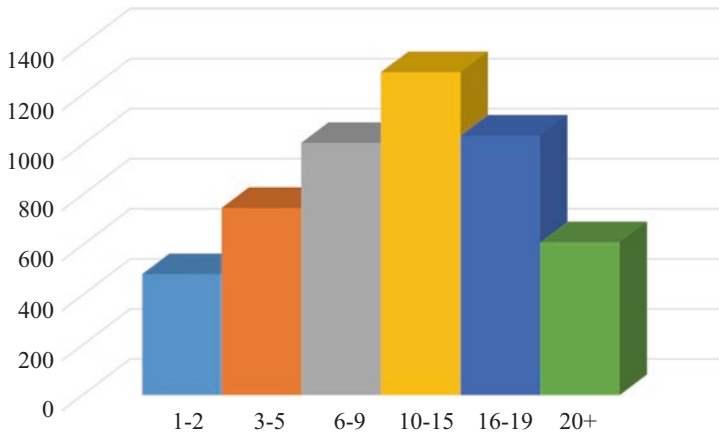


Fig. 2.17 Capital intensity by size groups in informal sector firms (in 00s). Source: Authors' estimates

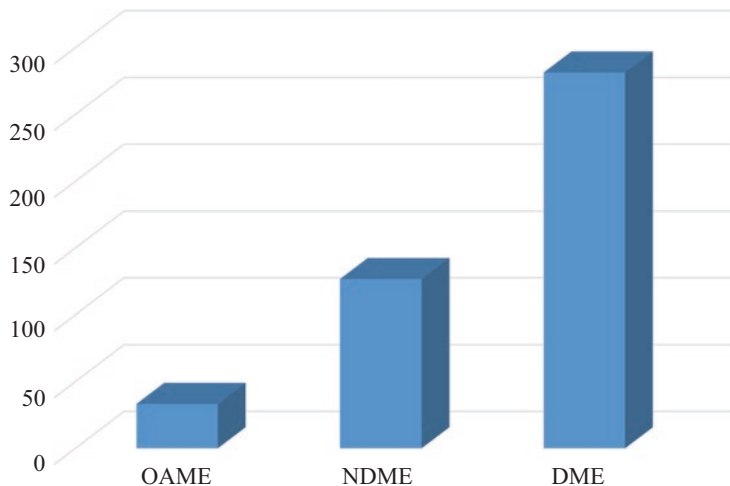


Fig. 2.18 Mean plant and machinery to employment by enterprise type (in 00s).
Source: Authors' estimates

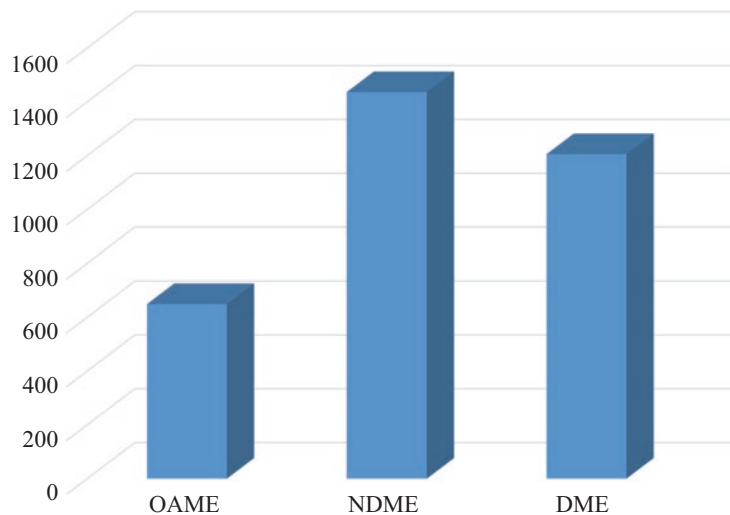


Fig. 2.19 Mean land and building to employment by enterprise type (in 00s).
Source: Authors' estimates

Act are less likely to invest in costly plant and machinery as they are reluctant to make the transition to the formal sector, possibly due to the large costs of monitoring in the latter sector which they would like to avoid.

8 AGE, SIZE AND PRODUCTIVITY

Do informal firms in India increase in size and become more productive as they grow older? The existing evidence for other countries suggests a negative relationship between age and growth (Sleuwaegen and Goedhuys 2002). Some studies have also found an inverse U-shaped relationship between age and productivity (Jensen et al. 2001; Van Biesebroeck 2005; Fernandes 2008). In the case of India, Deshpande and Sharma (2013) reported a negative association between age and firm growth. Using the latest two rounds of NSSO survey data, we test for the presence of relationship between firm age, firm size and productivity. The NSSO reports the year of initial operation of firms covered in their surveys. We exploit this information to compute firm age, which is defined as the number of years elapsed since the commencement of firm operation. Our findings fail to suggest any precise relationship between age of the enterprise and firm size. Given that the larger firms tend to survive longer, one would generally expect a positive relationship between the two and, hence, would see the average age increasing with firm size. In our case, the average age of the enterprise does not show any significant difference across enterprise types (Fig. 2.20). We explore this relationship further in Fig. 2.21 in a scatter diagram, where we capture the relationship between employment and age of the enterprise. The scatter plot, too, fails to suggest any precise relationship between age and size of the firm. We have also examined the role of age on productivity and capital intensity, and we found absence of any such relationship between firm age and productivity and capital intensity (Scatter Plots 2 and 3 in Fig. 2.21). As argued by Hsieh and Klenow (2014), this may stem from the barriers to productivity growth faced by large and old firms in India—such as “contractual frictions in hiring non-family labour, higher tax enforcement on larger firms, financial frictions, difficulty in buying land or obtaining skilled managers, and costs of shipping to distant markets”. However, more research is needed to precisely establish the reasons behind the absence of a relationship between firm age and productivity. Perhaps the distortions in the product and factor markets that large informal firms face could explain this lack of relationship.

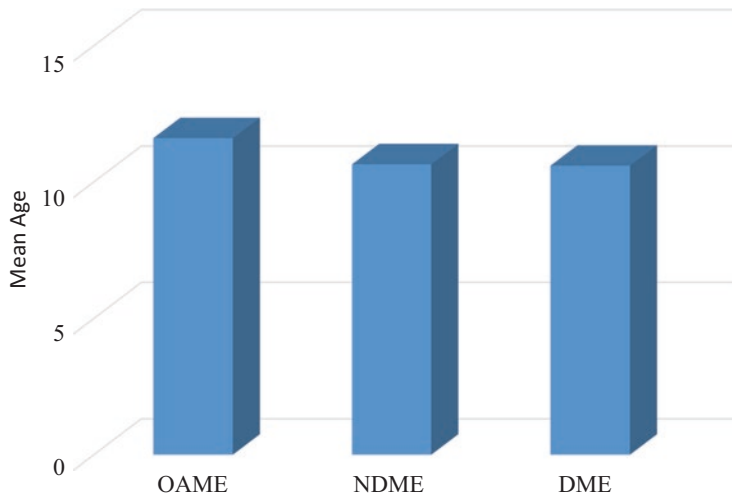


Fig. 2.20 Age by enterprise type. Source: Authors' estimates

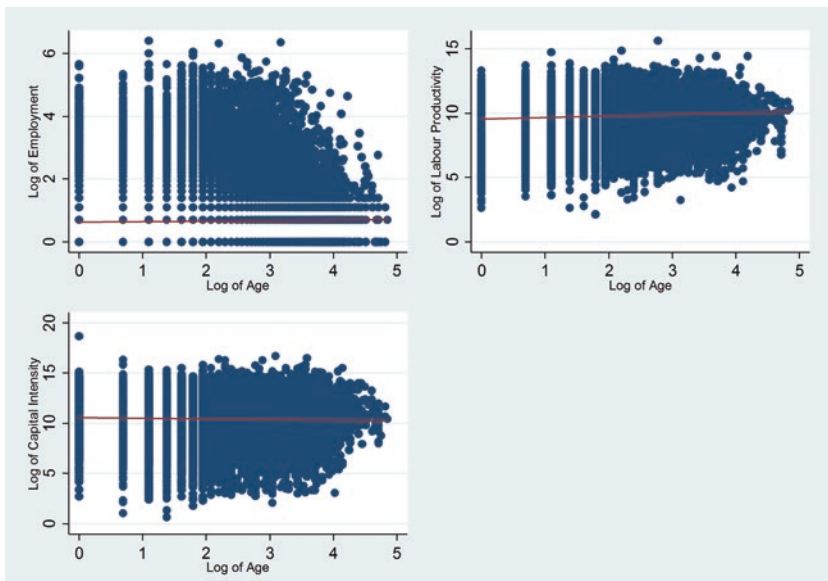


Fig. 2.21 Relationship between age and firm size, productivity and capital intensity. Source: Authors' estimations

9 SOCIAL GROUP OF FIRM OWNER, FIRM SIZE AND PRODUCTIVITY

Recent years have seen a surge in studies that have attempted to relate the social group of the firm owner with size and productivity. Some studies have highlighted that enterprises owned by Scheduled Castes (SCs) and Scheduled Tribes (STs) are under-represented in the population of small and medium enterprises, and that these enterprises are smaller in size as compared to enterprises owned by other social groups (Deshpande and Sharma 2013; Iyer et al. 2013). The SCs and STs are also over-represented in occupations which have the highest rates of poverty (such as agricultural labour in rural areas and casual workers in urban areas), and there is mixed evidence on the degree of occupational mobility that these social groups have witnessed in recent years, especially in the post-reform period. For example, Hnatkowska et al. (2012) find significant convergence of occupation and wages of SC and ST groups towards non-SC/ST levels in the period 1983–2005, using quinquennial NSSO employment surveys. Similarly, Kapur et al. (2010) find clear mobility of SCs from being agricultural labourers to being owners of OAMEs using primary data from Uttar Pradesh. Gang et al. (2017) find evidence of occupational convergence among SCs towards non-SC/STs but not STs in rural areas. On the other hand, Newman and Thorat (2012) find social and economic discrimination significantly restricts the mobility of SCs, and their entry into ‘non-traditional’ occupations.

The recent NSSO surveys collected information on the social group of the owner of the informal firms, which enables us to investigate the firm size and productivity among the firms owned by entrepreneurs belonging to different social groups. Using this information from the NSSO data, we identified four categories of firms: (a) firms owned by those belonging to the general category (General); (b) firms owned by other backward classes (OBC); (c) firms owned by Scheduled Castes (SC); and firms owned by Scheduled Tribes (ST). We first examine whether there exist considerable differences in firm size across firms owned by various social groups. The results are in line with our expectations. Firms owned by general category, on average, employ more workers, followed by firms owned by OBCs, STs and SCs (Fig. 2.22). The size differential across social groups is more evident among the DMEs than in the OAMEs and the NDMEs. We notice more or less a similar pattern for labour productivity too. Firms owned by general social group category report the highest productivity levels, fol-

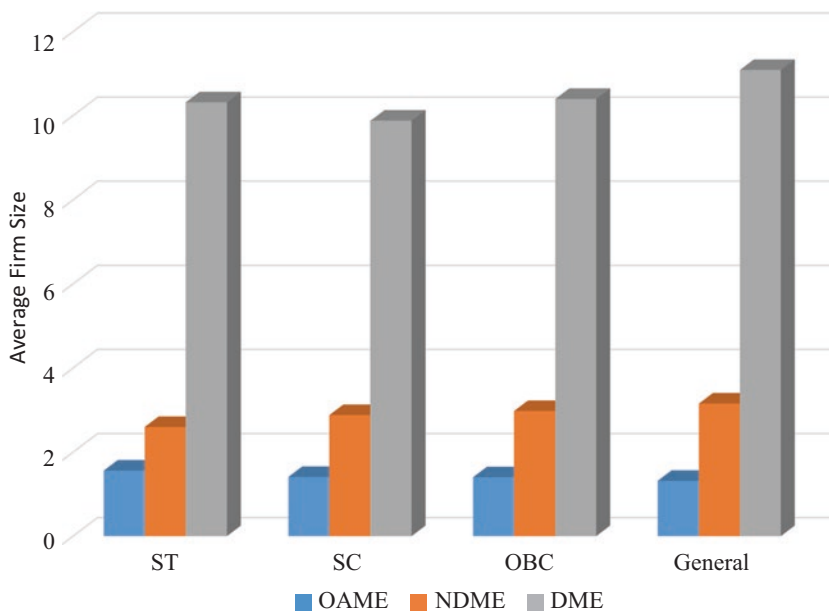


Fig. 2.22 Firm size by enterprise type and caste. Source: Authors' estimates

lowed by firms owned by the OBCs, the SCs and the STs (Fig. 2.23). To sum up, the evidence points to the existence of clear divergence in size and productivity between the firms owned by different social groups, with the SCs (and STs, in the case of productivity) being the most disadvantaged, followed by the OBCs, while the firms owned by the general group (forward castes, along with non-Hindus) are the largest in size and the most productive. Our findings possibly point to the prevalence of social barriers to firm growth in informal manufacturing in India, which restrict the participation of socially disadvantaged groups in the growth process of the economy.

10 EDUCATION OF OWNER AND FIRM SIZE

Earlier studies on informal firms for other developing countries maintain that firms with educated owners tend to improve in size and productivity as compared to firms with less educated owners (Sonobe et al. 2011; Amin and Huang 2014). We examine this in the context of informal firms in

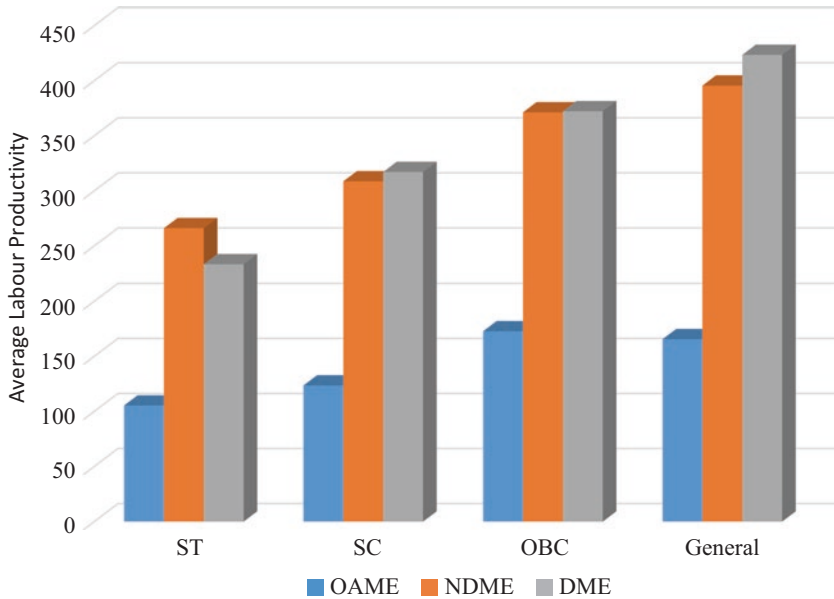


Fig. 2.23 Labour productivity by enterprise type and caste. Source: Authors' estimates

India. To do this, we classify the firms into four categories based on the information available from the 62nd round of NSSO surveys on the unorganized manufacturing sector on the education level of the firm owners. The four categories are defined as follows: (a) firms owned by illiterates, (b) firms owned by entrepreneurs educated up to primary level, (c) firm owners who have an education up to higher secondary level, and (d) firm owners with post-graduation and above. If education indeed plays a positive role, one would expect firm size and productivity increasing with the level of education. Findings based on our analysis, however, do not produce any clear evidence on the positive role of education of firm owners on firm size (Fig. 2.24). Of course, we do find that average size is highest for firms which are owned by entrepreneurs with post-graduation and above. However, our results also show that the next category in terms of size is firms owned by illiterates. This pattern is visible across all enterprise types. On the other hand, we find that education is positively linked to

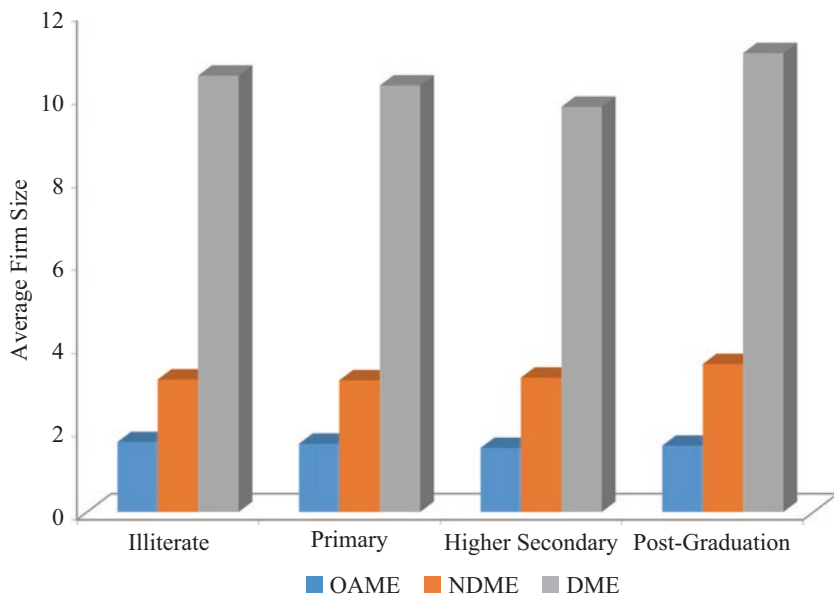


Fig. 2.24 Firm size by education and enterprise type, 2005–06. Source: Authors' estimates

productivity. When we relate educational qualification of the owner with labour productivity in Fig. 2.25, we find that labour productivity increases with levels of education. The productivity levels are higher for firms run by owners having a post-graduate degree and above, followed by firms where owners have education up to higher secondary level, those who have a primary education and at the bottom are those firms owned by illiterates. This suggests that human capital of the owner matters for firm productivity even in the informal sector, where the returns to education are likely to be low. Perhaps more surprisingly, returns to education also matter significantly for household enterprises, which are the least productive among the firms in the informal sector and employ most of the working poor in urban areas. Our findings perhaps point to the important role schooling might play in addressing the constraints to growth and productivity of all informal firms.

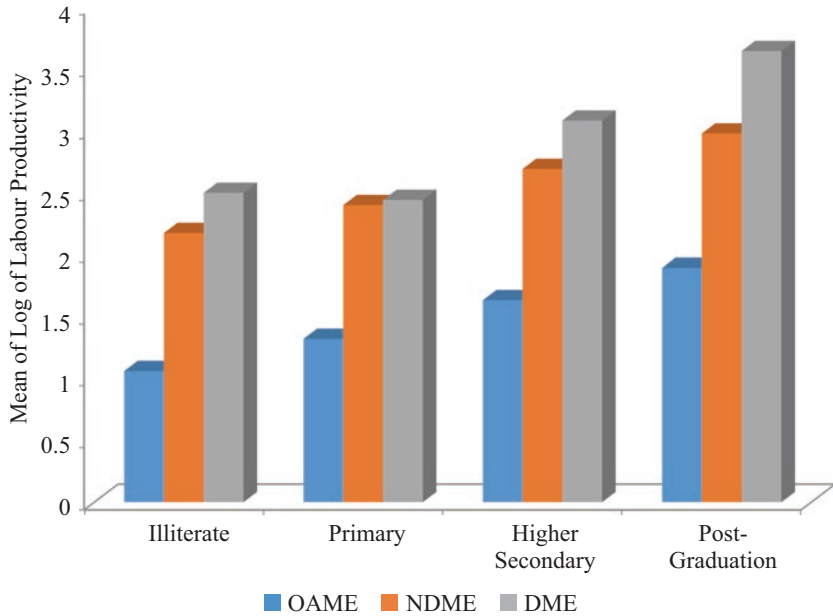


Fig. 2.25 Labour productivity by education and enterprise type, 2005–06. Source: Authors' estimates

11 WAGES, FIRM SIZE AND PRODUCTIVITY

How do wages paid to workers differ by the type of firm? Do wages differ by firm ownership and social group of the owner and are the most productive firms paying the highest wages? In this section, we put together some stylized facts about wages in the informal manufacturing sector and examine whether wages paid to workers differ by type of firm, firm ownership and social group of the owner. Our measure of wages here includes wages and salaries payable in cash or in kind, and it excludes the value of social security contributions paid by the employer.⁶ We use real wages, which are obtained by deflating nominal wages with consumer price index (CPI) for industrial workers at 1993–94 prices, and use monthly wages per worker to make the comparisons across different types of enterprises. We find

⁶The caveat here is that own account manufacturing Enterprises (OAMEs) mostly use family labour, so these include only wages and benefits for working owners.

clear evidence that the DMEs pay higher monthly wages, followed by the NDMEs and then the OAMEs. Our computations suggest that the DMEs pay monthly wages 1.5 times higher than those paid by the NDMEs, and 1.2 times more than the monthly wages paid by the OAMEs. This may be explained by the fact that large firms demand a higher quality of labour, defined by observable characteristics such as education, job tenure and a higher fraction of full-time workers, and hence end up paying higher wages. It is also partly due to the higher productivity and stability of the workforce in large firms. Our findings thus show how important it is for firms to make the transition from OAMEs to DMEs so as to better the living conditions of the workers employed in these enterprises (Fig. 2.26).

As expected, the wages paid by partnership firms are much higher than the wages paid by firms owned solely by female and male proprietors (Fig. 2.27). Between male and female proprietorship firms, the average monthly wages are higher in the male proprietorship firms. Recall here that the partnership firms and male proprietary firms are larger in size and more productive than the proprietary firms owned by the females. We find that, among the DMEs, firms owned by the General social group pay the highest wages, followed by firms owned by OBCs, firms owned by STs and firms owned by SCs (Fig. 2.28). This is not a surprising finding, as we

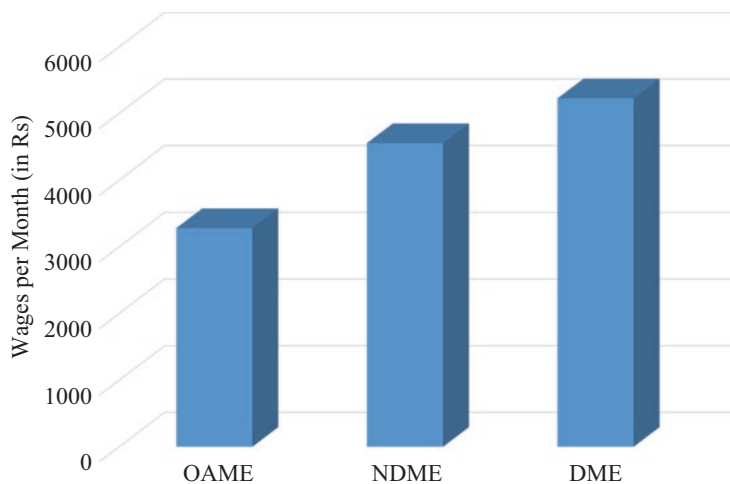


Fig. 2.26 Monthly wages per worker by enterprise type (average for 2010–11 to 2015–16). Source: Authors' estimates

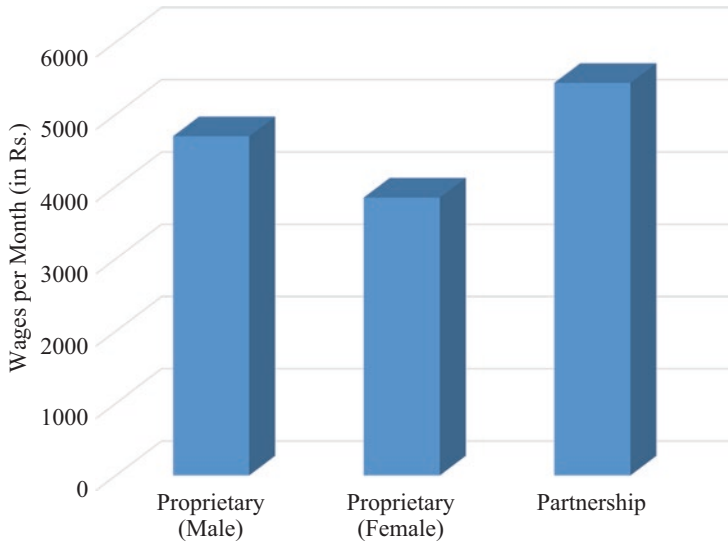


Fig. 2.27 Monthly wages per worker by ownership (average for 2010–11 to 2015–16). Source: Authors’ estimates

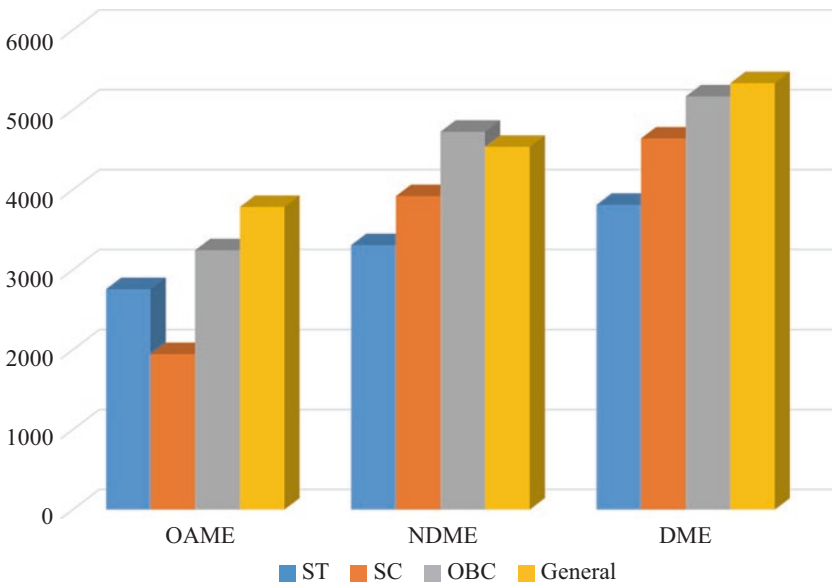


Fig. 2.28 Monthly wages per worker by social group of the owner and enterprise type (average for 2010–11 to 2015–16). Source: Authors’ estimates

have already observed that DMEs owned by the General group are the most productive. When it comes to the NDMEs, the correlation between wages paid and the social group of the owner is less apparent. In the case of NDMEs, firms owned by the OBCs pay the highest wages, followed by firms owned by the general social group, firms owned by the SCs and firms owned by the STs. In the case of OAMEs, we observe more or less similar pattern as observed for the DMEs, except that firms owned by the STs pay higher wages than those owned by the SCs. Finally, the scatter plots presented in Fig. 2.29 shows strong evidence supporting the positive relationship between wages paid to workers and firm productivity, and wages paid to workers and firm size. The relationship between wages and firm productivity is particularly strong, indicating the importance of improving firm productivity in the Indian informal sector as a means to improve the living standards of the workers employed.

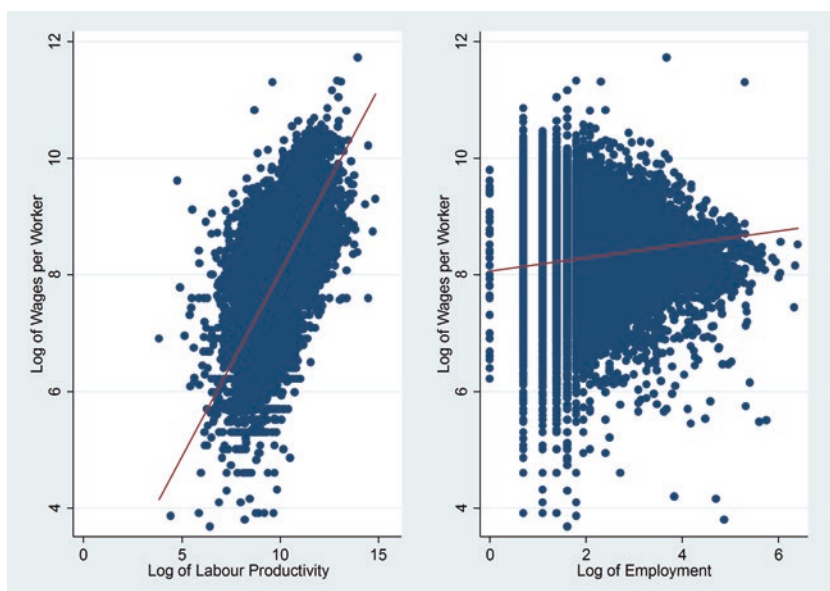


Fig. 2.29 Wages per worker, labour productivity and firm size. Source: Authors' estimations

12 CONCLUDING REMARKS

In this chapter, we present some stylized facts about firms in the Indian informal manufacturing sector, using the most recent unit record data from the NSSO surveys of unorganized enterprises. Our analysis suggests that important changes have occurred in the Indian informal manufacturing sector in the era of globalization. Our results point to a consistent but marginal decline in the size of an average firm in the Indian informal manufacturing sector over time. The decline is more evident among the OAMEs and the NDMEs, while the decline in the DMEs is confined to the last quinquennium of our study period. These changes are more marked for firms in the rural areas than in the urban areas. As regards labour productivity, there is an apparent inverted-U relationship between firm size and firm performance: labour productivity increases up to a certain size threshold and experiences a decline thereafter. Productivity is highest among firms that operate from fixed premises with permanent structures; however, the evidence is not decisive on the role of fixed premises and permanent structures on driving up productivity.

Our attempt to understand the relationship between size and capital intensity throws up an interesting finding: the share of investment in plant and machinery to total fixed capital investment is considerably lower for firms in the borderline categories as compared to other size categories and to their corresponding share in land and buildings. Our further examination on the correlates of wages and productivity identifies firm size, gender and social group of the firm owner and location of the firm as important determinants. We find enough evidence to deduce that the most effective way to increase the wages of informal workers is to increase the productivity of the enterprises they work in, and that the larger these enterprises are, the more productive they are. However, our findings also point to the existence of social and economic barriers to informal enterprises in increasing their productivity—we find that firms owned by members of disadvantaged social groups such as the SC and ST, and female-owned enterprises are less productive than those headed by other social groups and by males. This suggests that targeted policies towards enterprises owned by marginalized groups are necessary to create a more inclusive development pattern in the informal manufacturing sector.

The missing middle problem is clearly seen in our analysis of firm size distribution with the strong presence of both small and large firms, with a conspicuous ‘missing middle’, and the markedly larger productivity

differentials between small and large firms. They suggest that creating an institutional environment aiding the upward progression of small firms can lead to substantial increase in the growth and productivity of overall manufacturing sector. Raj and Sen ([forthcoming](#)) show that most important sets of institutions are the ones that could be termed ‘predatory’ institutions—the corruption that mid-sized firms face in their day-to-day interactions with the state. Thus, there is more attention that needs to be given to discipline lower level bureaucrats who engage in petty corruption and to make government procedures more transparent and accountable so that there is less scope for corruption.

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Exploring the Pattern of Trade Union Activity in the Indian Manufacturing Sector

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and Prateek Kukreja*

I INTRODUCTION

This chapter is primarily an attempt to estimate an empirical model of trade union activity in India. To do this, we, of course, need data but as we underscore over the course of this chapter, such data on unions are very

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difficult to obtain in India. Against this backdrop, the present study counters this shortcoming of data on trade unions by using information from a specially commissioned survey on manufacturing firms to investigate the pattern of trade union activity in Indian manufacturing industries sampled across five Indian states. The chapter takes on the task of understanding what are the forces that allow a union to establish itself in a particular firm. In other words, we are looking to see what are the underlying market and institutional forces that influence union location in manufacturing industries. While there are many qualitative accounts of union activity in India, ours is an empirical endeavour to identify the critical forces that could be motivating union activity. It is vital to get a sense what compels unions to set themselves in particular locations to provide a prior conceptual base for understanding the place and future of trade union activity in India. The empirical results show that unions locate themselves in a firm where there is a potential to share in the surplus generated by the firm. Additionally, we find that such location is sensitive to the institutional (legal) milieu, in addition to being supportive of predictions made by the incomplete *contract* model of the labour market, which further underlines the importance of institutional frames within which labour markets function.

We begin in Sect. 2 of the chapter by expanding on our motivation to pursue this empirical project and follow it up with a description of the survey from which our data are gathered in Sect. 3. Next, in Sect. 4, we propose a utility-based model of union behaviour, which we set up as a binary-dependent model, linking trade union activity with a set of market and institutional factors. Section 5 presents the results of our estimation and discusses the significance and implications of the findings. The chapter ends with some concluding remarks in Sect. 6.

2 MOTIVATION

There is a sense that trade unions are a losing force all over the world (Gumbrell-McCormick and Hyman 2013)—losing membership and losing power as concerted moves are made to weaken or repeal their legal base in the face of globalization, and temporary workers are hired in large numbers. In India too, Shyam Sundar (2017) attributes globalization, particularly

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the economic reforms of the 1990s, as the cause for firms to adopt labour flexibility measures like the employment of contract workers and outsourcing tasks to reduce operating costs, all of which have adversely affected the working of trade unions. Apart from being sourced in economic reforms, this ‘weakening’ of trade unionism has also been attributed to various other factors, ranging from technological progress to organizational issues, to the role of judiciary and to the weakening of nexus between politics and trade unions. To get a sense of trade union strength, one simple measure would be to calculate the trade union density by looking at the ratio of union members to wage and salary earners as is done, for example, in Visser (1991), but such patterns are next to impossible to discern in India. While there is a fair amount of literature available that analyses the pattern of trade union activities in the context of developed countries, similar studies in case of developing countries like India are highly limited. This is largely due to dearth of data availability on trade union membership in India. The paucity of data on membership emerges from the fact that both the submission of information by trade unions and the processing of data by the state labour departments are very poor, as has been prominently brought out by Shyam Sundar (2008). Interestingly, the penalty applicable on a trade union in case of failing to submit returns, as per the provisions of the Trade Union Act, 1926, is a nominal fine of up to ₹5 (US\$0.073 as on 2 August 2018), and in case of a continuing default, with an additional fine which may extend to just ₹5 for each week after the first during which the default continues. Clearly, this minimal penalty in case of default is incapable of inducing the unions to file returns on a regular basis, thus resulting in non-submission of information by a majority of unions. This deficiency in unions reporting to state governments and the state governments in turn not reporting to the central government puts into question whether there has been any secular decline in the degree of unionism. In fact, as Shyam Sundar (1999) points out, the deterioration in the quality of data on unions published by the bureau is appalling, even condemnable. He argues that, firstly, the official data pertain only to registered unions, while ignoring the non-registered union sector; further, not all registered unions submit return. Secondly, the non-submission of returns by unions is coupled with poor compliance by state labour departments that fail to furnish returns to the central government in time and are therefore excluded in all-India statistics. This, according to him, raises doubts on the usefulness of a crucial index—the degree of unionism, which consists of the proportion of the ‘organizable lot’ in a relevant geographical unit, is never clear because we never get proper figures on unions and their strength.

Often enough, academic work on trade unions in India proceeds with small-scale primary data supplanted with whatever little secondary data are around as is the case with Ghosh (2008), who explores the responses of unions to changing industrial scenario. He finds that economic liberalization has subdued industrial unrest and has made the unions more concerned about survival. This has resulted in scaled down militancy, reduced inter- and intra-union rivalry and better efficiency and productivity of the organization through democratization and decentralization. He argues that there is a perceptible change in the union's strategy and approach to labour problems over time.

It is precisely this perception that union activity is linked to militancy that has ended up becoming the backbone of empirical work—data on strikes or industrial disputes are used as a substitute/proxy for union activity. Thus, Saha et al.'s (2013) work on trade, labour institutions and flexibility uses the lockout to strike ratio to represent workers' bargaining power. Others like Ramjas (1989) have used data on workdays lost in industrial disputes to measure the degree of trade unionism, recognizing the inadequacies faced by the data pertaining to union membership. Chakravarty (2010), while analysing the presence of trade unions in West Bengal, also looks at the data on lockouts and strikes to show that a rise in the former accompanied by a decline in the latter signals the lack of a strong trade union movement in the state. A recent commentary by Shyam Sundar and Sapkal (2017) on contemporary trade union activity relies almost entirely on strike data to make their analytical points, namely that perhaps inter-union solidarity is increasing.

While this kind of work is able to get some feel about the relative bargaining power of workers, it is quite imperfect in capturing the compulsions behind union activity and gives us little sense of the patterns of union behaviour or the circumstances they operate in on the ground. The many questions that come to mind include what kind of industries are associated with the most union activity, is there a relationship with size and so on—in other words what are the firm characteristics that we can associate with union activity? With the lack of data, discussions around unions end up being confined and emphasizing organizational issues. While organizational advice to unions in the face of perceived decline (Shyam Sundar 2008)—that they need to restructure themselves so as to enlarge their constituencies by moving operations away from factories to other sectors—is well taken, we need to get a sense what compels unions to set themselves in particular locations to provide a prior conceptual base of factors driving union activity.

Such questions cannot be answered with the usual data available as is clear from our discussion, but perhaps a beginning can be made by drawing on a

data set that we have generated that captures important characteristics of firms located in the Indian manufacturing sector. These data are described more fully in the next section, but the point to note immediately is that the data set contains information as to whether a union is present in the firm. This allows us to connect the presence of a union with other firm characteristics and thus perhaps discern the factors (at least some) that may be influencing the establishment of unions in a particular location.

3 SURVEY DETAILS

We draw our data from a specially commissioned survey of manufacturing firms undertaken by the Indian Council for Research on International Economic Relations (ICRIER), as part of a World Bank-funded project ‘Jobs and Development’ 2014–16. The selected 500 firms were chosen from the Annual Survey of Industry (ASI) frame 2013–14 (details regarding the choice of firms are given later) and were located in five states, namely Haryana, Tamil Nadu, Maharashtra, Gujarat and Karnataka, spread across eight industry divisions, following the National Industrial Classification (NIC) 2008—viz. manufacture of food products; manufacture of textiles; manufacture of wearing apparel; manufacture of leather and leather products; manufacture of computer, electronic and optical products; manufacture of electrical equipment; manufacture of motor vehicles; trailers and semi-trailers; and manufacture of other transport equipment.

3.1 *Choice of States and Industries*

The selection of the industries and the states for the survey followed the overall employment and output figures pertaining to the Indian manufacturing sector, attempting to capture states and industries that contribute the most to both output and employment.

As can be seen in Fig. 3.1, the selected states show similar levels of gross value added (GVA) growth of around 12–13 per cent over 1998–2013. Further, these states account for about 56 per cent of the GVA and account for around 50 per cent of the total contract workers engaged during 2013–14 in the organized Indian manufacturing sector. It may be further noted that among the five states chosen, Maharashtra, Gujarat and Tamil Nadu are prominent in driving both output and employment, since they generate 45 per cent of the GVA and employ 40 per cent of total workers in the manufacturing sector.

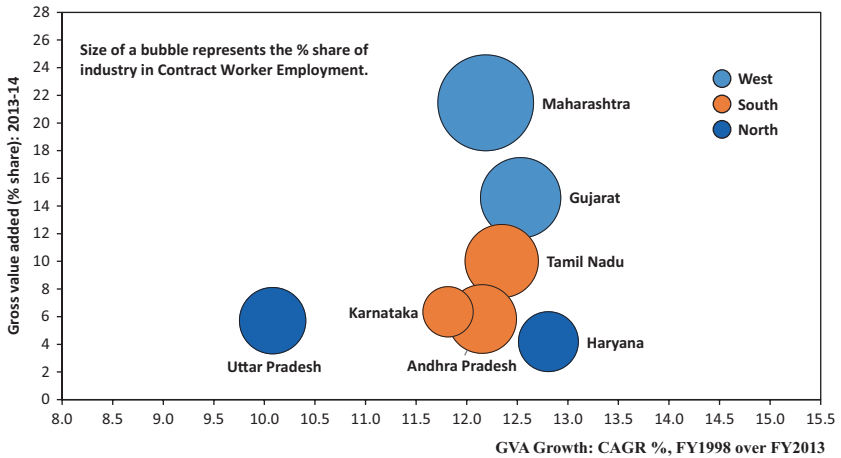


Fig. 3.1 Selection of the state. Source: Based on Annual Survey of Industries (ASI) (2013–14), Ministry of Statistics and Program Implementation, Government of India

Turning to the choice of industries, the Indian manufacturing sector consists of industries that vary in production technology with some industries making large value additions but employing a small fraction of the workforce, while, on the other hand, there are other industries that contribute equally to the GVA but employ a large fraction of the workforce. As can be seen in Fig. 3.2, textile, food products and motor vehicle contribute about 6 per cent of the GVA, but textiles and food products employ about 5 per cent more workers than motor vehicle industry. We made our choice of the set of industries for the survey to reflect a range of GVA shares on the one hand, and to represent a range of employment shares as well on the other. At an aggregate level, these industries contributed 30 per cent to the GVA during 2013–14 and employed 36 per cent of the contract workers in Indian Manufacturing.

Further, six, out of these eight selected industries are grouped into three broad categories as follows:

- (a) Manufacture of textiles and manufacture of wearing apparel are combined to form manufacture of textile and wearing apparel;
- (b) Manufacture of computer, electronic and optical products and manufacture of electrical equipment are combined to form manufacture of electricals and electronics; and

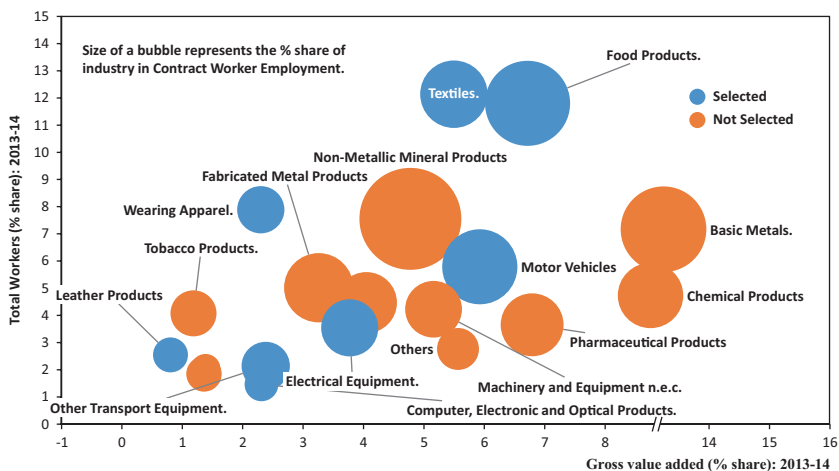


Fig. 3.2 Selection of the industry. Source: See Fig. 3.1

- (c) Manufacture of motor vehicles, trailers and semi-trailers and manufacture of other transport equipment are combined to form manufacture of auto components.

In this chapter, our empirical work is based on five major industrial classifications, viz. auto components, electronics and electrical equipment, leather products, textile and apparels and food processing.

It may also be noted that in three of these five selected industries—electronics, textiles and auto components—more than 50 per cent of the value added originates from the chosen states as can be seen in Fig. 3.3. In the other two selected industries, that is, leather products and food processing, the major chunk of the GVA originates from Uttar Pradesh, Andhra Pradesh and Punjab in the case of the food processing industry and Uttar Pradesh and West Bengal in the case of the leather industry. These states are included under the label of other states in the Fig. 3.3.

Having decided on the states and the industries to be covered, the enterprises covered by the survey were chosen using random sampling technique, drawing from the population of Annual Survey of Industries (ASI) frame of 2013–14 of registered manufacturing firms across different size classes. Using the list of the firms located in each of the chosen states pertaining to the chosen industry, firms were classified into three different

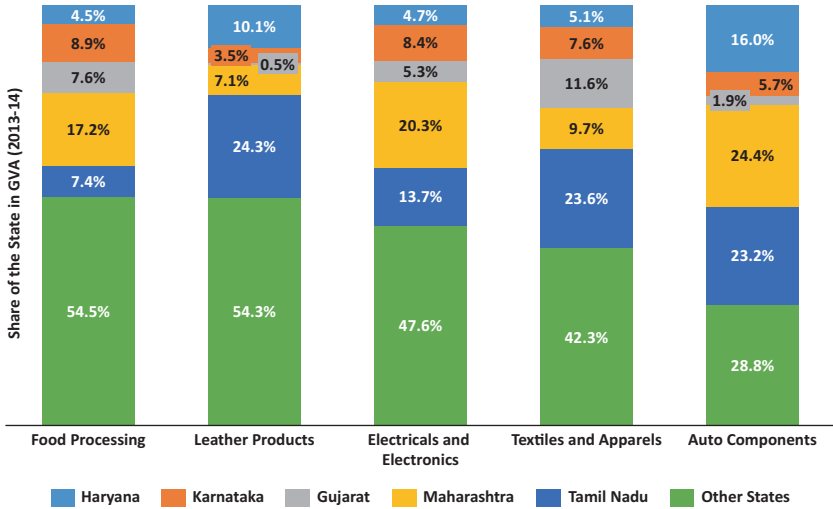


Fig. 3.3 Contribution of selected states towards industries GVA. Source: See Fig. 3.1

employment size classes. The firms employing less than 100 workers were classified in the first class, the next class consisted of firms employing 100 or more workers but less than 500 and the last class included firms employing 500 or more workers. Given the distribution of the firms across each employment size class, 20 firms were selected for each industry in each state in proportion to the employment levels associated with each class—giving us 500 observations.

The survey sought a good amount of information from the identified firms. Apart from being asked whether the firm had a union/unions, the survey gathered information on the year of establishment, turnover (sales), whether the firm was a Medium Small and Micro Enterprises (MSME) or not, was the firm located in a Special Economic Zone (SEZ) or not, whether the firm exported its output or not, the number of workers employed with details dividing workers into professionals, skilled, unskilled workers, cost of labour as proportion to total costs, what is the challenge to business, ranking issues of labour according to their intensity—how employers relatively valued skills, labour availability and retrenchment or labour adjustment issues. In addition to this, firms were asked whether they employ contract labour and additionally whether the

contract labour hired was professional, skilled or unskilled and if contract labour and regular workers worked side by side or were allocated different tasks, the education level of both types of workers and whether differential wages are paid.

4 MODEL AND EXPLANATORY VARIABLES

While a variety of goals can be ascribed to unions, we can safely reduce them to the idea that unions are centrally concerned about the wages and employment of their members (on this, see Booth 1995; Pencavel 1991, 217; 2009). Thus, broadly, we can say $U(\mathbf{w}, \mathbf{n})$ represents the gross utility to the trade union where \mathbf{w} and \mathbf{n} are vectors rather than scalars—the term \mathbf{w} includes many dimensions of compensation to workers including wages, bonus and other perks and the term \mathbf{n} is not only the quantity of employment but also includes other dimensions such as support for workers wrongfully terminated from employment. Now, trade unions cannot be established without support from workers who become members or in locations where employers can resist the moves of workers seeking to unionize themselves. We can represent this as the cost of setting up a union $C(\mathbf{w}, \mathbf{n}, \mathbf{t})$, where \mathbf{w} and \mathbf{n} enter the cost function as influencing the cost to the union of ensuring wage and employment packages to union members and \mathbf{t} represents the set of institutional factors such as the prevailing legal and political regime. Thus, we can think of the net utility to a trade union $G(\mathbf{w}, \mathbf{n}, \mathbf{t}) = U(\mathbf{w}, \mathbf{n}) - C(\mathbf{w}, \mathbf{n}, \mathbf{t})$. It is, of course, not possible to measure this utility, but we can surmise that unions would typically establish themselves in locations where they are able to maintain a positive net utility and do not establish themselves where the utility is 0 or less than 0. So, when $G(\mathbf{w}, \mathbf{n}, \mathbf{t}) > 0$, union activity is established but not when $G(\mathbf{w}, \mathbf{n}, \mathbf{t}) \leq 0$. This line of thinking allows us to attempt some empirical estimation of the underlying parameters. We therefore suggest that the latent variable G , reflecting the net utility to unions, is expressed as:

$$G = \mathbf{x}^T \boldsymbol{\beta} + u,$$

where u is a random term and \mathbf{x} is a vector of k explanatory variables and $\boldsymbol{\beta}$ is a $k \times 1$ vector of unknown parameters. Though we cannot observe G , we can see whether a union has been able to establish a presence in a

firm ($y = 1$) or not ($y = 0$) and if it is assumed that it is necessary for $G > 0$ for a union to be established in a firm, then we can say that:

$$\Pr(y = 1 \mid X = x) = \Pr(u > -x^T \beta \mid x) = F(x^T \beta \mid x).$$

Thus, here, y takes the value 1 if there is a reported presence of a union in an enterprise and 0 otherwise, $x = (x_1, \dots, x_k)^T$ is a vector of explanatory variables, β is a vector of unknown parameters that must be estimated and $F(\bullet)$ is the conditional distribution function of the random term. In other words, the probability of observing the event ($y = 1$) is given by the cumulative density function $F(\bullet)$, and if we assume $F(\bullet)$ can be represented by a probit distribution, then the maximum likelihood method can be used to obtain estimates of β .

4.1 *Explanatory Variables*

Following from our discussion earlier, the explanatory variables try to capture the wage and employment characteristics of firms that could help unions establish themselves in a location, as well as other institutional factors that may be influencing the decision as well. The variables we were able to include using the information available from the survey are:

1. **Output (logturnover)**—This variable while being a measure of output also doubles up as a measure of size of the establishment. The numbers for this variable were constructed by taking turnover (sales) figures reported by the firms and proceeding to take the logarithmic value.
2. **MSME**—The data from the survey tells us whether the firm is classified as a Micro, Small and Medium Enterprises (MSME) firm. For a firm to be classified as an MSME, it needs to be from a scheduled list in the MSME Development Act 2006. This list was initially set up to protect small manufacturing firms from international competition, but more recently, the government has shifted its policy to provide MSME firms with fiscal subsidies. Thus, in part, we can think of this variable as one that captures firms that are targeted by government policy—typically smaller firms which are provided with incentives so that they may consolidate and

grow. However, there is another dimension to this variable as well—MSME firms by definition have a relatively smaller capital base and therefore can be taken to also be firms that work with a small amount of financial capital.

3. **Rigidity of the Labour Law Regime (Rigid_rama)**—As is widely known, much of the literature around the influence of labour law on employment and output in India is centred around the state-level variation in labour legislation with some states classified as pro-labour and others as pro-employer. This variable is included here to see if the variation in the legislated labour law regime, across the states covered in our sample, influence union activity. Empirical work using a labour market rigidity index for India was pioneered by Besley and Burgess (2004), but following up from criticism of their classification,¹ subsequent studies have revised the classification. We use the recent index constructed by Ramaswamy (2015). As per this, Gujarat, Karnataka and Tamil Nadu are classified as pro-employer and Haryana and Maharashtra as pro-worker.
4. **Labour Intensity (Labinten)**—This variable categorizes the industries covered in the survey into two groups: labour intensive and capital intensive. Food processing, leather products and textiles and garments are understood to be labour intensive, while electricals and electronics and auto components are labelled capital intensive. This division is made on the basis of capital labour ratio value of these industries between 2009 and 2014. The industries which have a capital labour ratio value higher than the average value of the five industries combined are taken as capital-intensive industries, whereas the industries, having a lower average capital labour ratio value than the overall average are taken as labour-intensive industries.
5. **Ratio of Labour Costs to Total Costs (Labourcostshare_1314)**—The survey provides no direct information on wages; however, we do get figures on the amount firms expend on labour in proportion to total costs. This is useful in giving us a sense of the importance of labour costs as a ratio to the total—presumably a lower number

¹ See Aditya Bhattacharjya “Labour market regulation and industrial performance in India: A critical review of the empirical evidence” *Indian Journal of Labour Economics*, Vol. 49, No. 2, (2006): 211–232; Aditya Bhattacharjya “The Effects of Employment Protection Legislation on Indian Manufacturing” *Economic and Political Weekly*, Vol. 44, No. 22 (2009): 55–62.

reflects the importance of capital and other costs and also perhaps an indication of shareable rent.

6. **Special Economic Zone**—It is widely perceived that union activity is discouraged in Special Economic Zones (SEZs) (see Singh 2009), and therefore the inclusion of this variable is important to see whether SEZs have a discernible link with union activity.
7. **Contract Worker (ContractWorker)**—The firms surveyed were asked whether they employed contract workers alongside regular workers, and some firms answered in the affirmative, while others did not. Since contract workers work under a very different legal and organizational regime in comparison to regular more permanent workers, this variable is very important for us to gain insights regarding union activity.
8. **Wage Differential (Wage Difference)**—To remedy the lack of data from the survey with regard to wages paid to contract labour and regular labour, we turn to data from Annual Survey of Industry (ASI). To construct values that would be compatible with the survey, we go back to the list of firms covering the five industries and five states by the ASI in 2013–14 from which we constructed the sample for the survey. For each firm, we have calculated the wage paid out to regular workers and contract workers (if employed by the firm). We arrived at this wage by summing up the total wages paid and dividing the number by the number of man-days worked for both categories of workers. We then proceeded to classify all the firms as per the employment categories used to generate the sample for the survey (firms employing less than 100 workers, firms employing 100 or more workers but less than 500 and firms employing more than 500 workers) for each state and industry that was chosen for the survey. In each employment category, we have constructed average wage figures by taking a simple average of wages paid to regular workers across all firms as well as a similar average by averaging across wages paid to contract workers. The difference between the two average wage figures gives us our measure of the wage differential. To phrase it differently, we have 5 states ($i = 1, \dots, 5$) 5 industries ($s = 1, \dots, 5$) and 3 employment classes ($e = 1, \dots, 3$), so we are able to specify a wage differential between regular and contract workers in the i th industry, s th state and e th employment class, and we then match this up to the appropriate set of firms when we estimate parameters.

9. **Share of Workers Involved in Production (Share_Prod_Workers)**—The surveyed firms were asked how many workers they employed in each of the following categories: professional, skilled, unskilled production and unskilled non-production. Using their responses, we calculated the number of workers involved in production activity to the total workers and use this as a measure of how important production activity is for the firm in question.

5 RESULTS

Our first step is to take a quick look at the descriptive statistics in addition to the diagnostic tests associated with the estimated probit model. The descriptive statistics are shown in Table 3.1, and as can be seen, number of variables are dummies with a few of the variables being continuous.

Next, we briefly look over the diagnostic tests associated with our estimated probit model, which are shown in Table 3.2. It can be seen that the mean Variance Inflation Factor (VIF) is low enough to suggest that there is no patent problem of multicollinearity. The Link Test result tells us that there is some chance of a misspecification error because the *P* values associated with predicted values just cross the 10 per cent level of significance,

Table 3.1 Descriptive statistics of variables

<i>S. No.</i>	<i>Variable</i>	<i>Unit</i>	<i>Mean</i>	<i>Standard deviation</i>	<i>Min</i>	<i>Max</i>	<i>Variable type</i>
1.	logturnover		2.573	1.821	-1.609	8.517	Continuous
2.	MSME	Dummy	0.812	0.391	0.000	1.000	Dummy
3.	Labinten	Dummy	0.602	0.490	0.000	1.000	Dummy
4.	Rigid_Rama	Dummy	0.432	0.495	0.000	1.000	Dummy
5.	Labour-costshare1314	Ratio	0.336	0.185	0.020	1.000	Continuous
6.	Contract worker	Dummy	0.350	0.478	0.000	1.000	Dummy
7.	Wage difference	Rupees	12.940	80.743	-193.62	272.42	Continuous
8.	SEZ	Dummy	0.109	0.312	0.000	1.000	Dummy
9.	Share_Prod_Workers	Ratio	0.750	0.171	0.000	1.000	Continuous

Source: ICRIER survey on labour issues in Indian manufacturing sector 2015

Table 3.2 Diagnostic tests

<i>Diagnostic</i>	<i>Values</i>
Log likelihood	-89.51
Likelihood ratio chi2(9)	47.87***
Pseudo R ²	0.2110
Mean VIF (variance inflation factor)	1.20
Link test— <i>P</i> values for predicted values and predicted values squared	0.137, 0.785
Hosmer Lemesow Chi2(8)	6.78
Hosmer-Lemeshow <i>P</i> > chi2	0.5607

Source: Authors' own computation

Note: ***significant at 1% level

but on the other hand, the *P* values associated with the predicted values squared are high enough. Overall, whatever misgivings this generates is made up from the fact that the goodness of fit test appears satisfactory—the high *P* value associated with the Hosmer Lemeshow Chi-squared test statistic tells us that the model fits the data and the Pseudo R² is also reasonably good for a cross-section estimation. The results of the estimated parameters are shown in Table 3.3—the estimated coefficients generated by the probit model as well as the marginal coefficients evaluated at their mean value are shown in the Table 3.3.

We turn our attention first to the three insignificant variables, namely turnover of the firm, the wage difference between regular workers and contract workers and the labour intensity of the industry. The results pertaining to two of these variables are surprising. One would expect unions to establish themselves in larger firms, but this is clearly not supported by the data. The insignificance of the wage difference between wages paid to regular workers and contract workers is also surprising, given that the presence of contract workers is a very significant variable. This result, in particular, needs to be reflected on further as we turn to the set of significant variables. While these variables turn out to be highly insignificant, the insignificance of the labour intensity variable is comparatively slight, since it is significant at a level of significance of 15 per cent. The sign of the coefficient tells us that the chances of drawing a firm with a union present go down if the firm belongs to a labour-intensive industry.

The first subset of significant variables we turn our attention to are MSME and labour cost share, both of them show the same inverse relationship with union activity that we see in the case of labour intensity.

Table 3.3 Maximum likelihood estimates of the probit model

<i>Explanatory variable</i>	<i>Estimated coefficients</i>	<i>Marginal effects dy/dx</i>	<i>X mean value</i>
logturnover	-0.0155 (0.0663)	-0.0015 (0.0065)	2.536
MSME	-0.484* (0.296)	-0.0479* (0.0296)	0.869
labinten	-0.335 (0.236)	-0.0332 (0.0232)	0.607
Rigid_Rama	0.490* (0.268)	0.04852* (0.0261)	0.417
Labourcostshare_1314	-1.942** (0.822)	-0.1924*** (0.0763)	0.332
ContractWorker	1.026*** (0.228)	0.10164*** (0.0249)	0.300
Wage difference	-0.00110 (0.00128)	-0.00010 (0.000127)	7.574
SEZ	0.638** (0.301)	0.06325** (0.0301)	0.0119
Share_Prod_Workers	2.143*** (0.862)	0.21240*** (0.0830)	0.750
_cons	-2.549*** (0.774)		

Source: ICRIER Survey on Labour Issues in Indian Manufacturing Sector 2015

Note: The numbers in parenthesis are standard errors. ***significant at 1 per cent level, **significant at 5 per cent level, *significant at 10 per cent level

All three of these variables have estimated parameters exhibiting a negative sign—thus the chances of drawing a firm which has a union present go down if the firm is a MSME, exhibits increasing amount of labour costs as a proportion to total costs or is labour intensive. One way of thinking about these variables is to understand them as reflecting the degree of shareable surplus available in a firm. As we have mentioned earlier, MSME firms by definition have a relatively smaller capital base and therefore are precisely the firms that may not be able to generate a surplus over which unions can bargain wage or bonus settlements (For a detailed discussion on MSMEs, see Roy 2013). Thinking along similar lines, it can also be proposed that unions are less likely to establish themselves in firms that already pay out the bulk of total costs to labour and are relatively labour intensive, again because there may not be a sufficient surplus to be bargained over.

Conceivably, this chain of thinking can help explain the positive sign of the SEZ variable. Given the generally held view that union activity is ostensibly discouraged in SEZs (see Singh 2009), one would have expected a negative relationship between SEZ location and the ease with which a union can establish itself. Instead, it may be the case that the regulatory regimes that govern labour markets in SEZs are de facto not so adverse to unions as imagined and, in fact, the economic activity engendered by the SEZ generates sufficient surplus for some union activity to establish itself. It could also be the case that the SEZ variable is capturing some of the

geographical location effects for which we do not have any variable except the location in states, which is being used to reflect the legal regimes confronting unions. Whatever the case, this clearly deserves further empirical scrutiny.

In addition to wage-surplus concerns, unions are important for employment anxieties that workers face—in India, it is unlikely that unions are able to influence overall employment of the firm, but they do play a role in ensuring that long-term employment is not terminated without cause. This is a dimension of union activity that is mentioned in one of the early papers (Klein et al. 1978), pioneering the application of the *incomplete contract framework* to understand the labour market—briefly, the idea being that since it is difficult to condition *ex ante* human capital investment on contracts, institutions such as unions are able to govern long-term relationships by preventing opportunistic action by employers such as firing workers towards the end of their tenure when such workers have invested in the job. This is perhaps the influence behind the fact that one of the most significant variables in our model shows a positive relationship between the share of workers devoted to production activities in a firm and the chance of drawing a union. To phrase it differently—unions seem to establish themselves where large proportion of the work force is involved in production activity, clearly getting support where worker involvement in production activities are the mainstay of the firm's workers.

Of course, to be able to protect workers from the vagaries of their employers, unions need to fall back on the law, and it is interesting to see that the variable that bifurcates the states covered by the sample into *pro-labour* and *pro-employer* states turns out to be significant. Thus, it appears that the probability of a union establishing itself in a *pro-labour* state is positive in relation to a *pro-employer* state. Indeed, we have to invoke the law further when we turn to the other extremely significant variable, namely the variable that captures the presence of contract workers.

The first impulse is to say that unions are perhaps drawn to firms that hire contract workers, but this is most likely not a correct surmise. Were that the case, the wage differential between regular and contract workers would have shown an influence on the decision for a union to establish itself in a firm. Instead, as we noted earlier, the wage differential has an insignificant impact on the dependent variable. While we have no quantitative means to establish it, qualitative accounts (Kumar and Singh 2018) show that contract workers rarely, if ever, neither are able to unionize themselves nor are existing unions very interested in incorporating the

interests of contract workers. This bifurcation can be partially explained by the law—after the Steel Authority judgement of the Indian Supreme Court (Steel Authority of India Ltd. & ... vs. National Union Water Front, 2001, <https://indiankanoon.org/doc/277653/>. Accessed on 10 June 2018). Indian employers can hire contract labour through the offices of a contractor and are under no obligation to absorb them into permanent jobs, so much so that currently about 35 per cent of the workers in the Indian manufacturing sector are contract workers (Das et al. 2018). This effectively means that contract workers do not have many rights that the court will uphold—indeed, it is the case the rights of all temporary workers were definitively curtailed by the Supreme Court in the Uma Devi case (Secretary, State of Karnataka and Ors vs. Umadevi and Ors., 2006, <https://indiankanoon.org/doc/1591733/>. Accessed on 10 June 2018). With no rights for contract workers, the strong link between the presence of contract worker and the possibility of a union being present is most likely an expression of a segmented labour market—where employers choose to hire in contract workers because of the presence of a trade union, presumably to counter the union power regarding wages and protection of tenure. (This chain of thinking, of course, creates the spectre of endogeneity for our model, but we checked for this statistically by estimating a bivariate probit with the trade union and the presence of contract labour as the two dependent binary variables. It turned out that the value of ρ —the correlation between the error terms of the two equations—was insignificant, suggesting that the two equations could be estimated separately with no endogeneity issues (Knapp and Seaks 1998).) Thus, this result is probably reflecting the point that if a union is present, then clearly inside workers are presumably protected, but outsiders are not and if a union is not present, then there is not much need for contract workers as a countervailing force against labour power. This can be seen quite vividly in Fig. 3.4, which plots the probability of drawing the presence of a trade union against the share of production workers, which can be viewed as an expression of a facet of the ‘demand’ for a union from workers. It can be seen that in firms which do not employ contract workers, the possibility of a union presence is much lower than in those firms that employ contract workers as well.

If we redraw the diagram as shown in Fig. 3.5, now ensuring that we only plot values that are significant, then we note that the threshold at which relationship kicks in is when half (0.5) the labour force is involved in production activity if contract workers are hired and two-thirds (0.67)

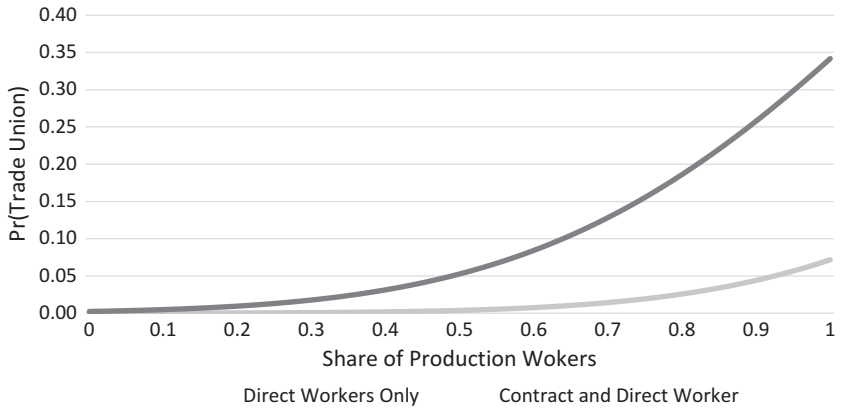


Fig. 3.4 Probability of trade union presence in relation to share of production workers I. Source: ICRIER Survey on Labour Issues in Indian Manufacturing Sector 2015



Fig. 3.5 Probability of trade union presence in relation to share of production workers II. Source: ICRIER Survey on Labour Issues in Indian Manufacturing Sector 2015

of the labour force is involved in production activity in firms that do not hire contract workers. However, it needs to be realized that the relationship between unions and contract workers is a complex dynamic process involving the strategies by employers to express their power that cannot be

captured by our model and cross-sectional data. Our findings can only suggest that we need to look at these relationships more closely because if it is the case that unions largely protect insiders and indeed the law supports this because the law only protects a set of regular workers (Singh 2015), then the future may be bad for unions unless they are able to take on board that this dichotomy is not in their own best interest (Shyam Sundar 2011).

6 CONCLUDING REMARKS

It thus turns out that in our quest to discern patterns of union activity in terms of firm characteristics, the first point we end up noting is that unions seem to locate themselves in firms where a surplus may be present—not in firms where financial capital is by definition small (MSME), not in labour-intensive firms and also not in firms that have a large labour cost in relation to total costs. This has an expected economic logic—and makes us realize that unions can only establish themselves where some surplus may be present. We have then gone on to argue that since the probability of a union being located in a firm with larger proportion of workers involved in production is positive and statistically very significant, this can be interpreted as providing some support for the incomplete contract theory of the labour market. The demand from these workers who are vital for the production process of firms is probably a major source of support for unions. The fact that the legal milieu has an important impact on union activity is evident from the fact that the probability of union locating in a *pro-labour* state is positive and significant. The law has also engineered a segmentation of the labour market on account of the interpretation of the Indian Supreme Court in the Steel Authority judgement,² a move that not only subtracted the rights of contract workers but also has provided incentives for employers to hire contract workers in ever-increasing numbers. This is reflected in our finding that there is a strong significant relationship between the chances of finding a union in a firm, and that the firm employs contract labour. Since contract workers do not find a place in unions because the law does not empower such workers with sufficient rights for a union to take up their case, this probably signifies strong insider protection in the face of attempts by employers to increase their power by employing contract workers when they can. Of course, all these points

²Steel Authority of India v. National Union Water Front Workers AIR 2001 SC 352.

need to be worked out better in a more dynamic model supported by time series or panel data and not the cross-section we have been obliged to work with.

Nevertheless, though ours has been a cross-sectional exercise, two points stand out—that unions will set themselves where there is a surplus, and having set themselves up, they can only help all workers get a piece of the surplus if they function in a legal milieu that gives (all) workers sufficient rights for the unions to make a difference. Unions will thrive to the extent they are empowered by law to deliver sufficient wage and employment packages to their subscribers.

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Labour Regulations and Informalization of Industrial Labour in India

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I INTRODUCTION

In the last 15 years or so, real value added in India's manufacturing sector has grown at the rate of around 7 per cent per annum, on average. But, in terms of creation of new jobs in the manufacturing sector, the performance has been relatively poor or at best rather modest. The growth rate in employment in manufacturing in the last 15 odd years has been on average somewhere in the range of 1.5–2 per cent per annum. What is more disconcerting is the fact that the slow pace of employment growth in manufacturing has been accompanied by informalization of industrial jobs.

The unorganized or informal manufacturing sector accounts for a large share in aggregate manufacturing employment. According to the estimates of Sakthivel and Joddar (2006), the share of unorganized manufacturing in total manufacturing employment was 80.3 per cent in 1983, which

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increased to 83.9 per cent in 1993–94 and 85.1 per cent in 1999–2000 (see also Ghani et al. 2013 for similar estimates). Goldar and Aggarwal (2017), however, find that there has been a fall in the share of the unorganized sector in manufacturing employment between 1999–2000 and 2011–12 (from 74.5 per cent to 62.3 per cent). A similar downward trend is observed in the employment estimates of Ghose (2016). Despite the fall that has occurred in the share of unorganized manufacturing sector in total manufacturing employment in the period after 1999–2000, a major portion of manufacturing employment *still* remains in the unorganized sector where the nature of jobs is informal in almost all cases. Also, there has not been any large-scale shift of manufacturing workers from unorganized to organized enterprises in the 1980s and 1990s, and even during the 2000s when the manufacturing sector achieved accelerated real value added growth.

One aspect of industrial employment in India that deserves a good deal of attention is the deteriorating quality of jobs in the organized manufacturing sector. The share of informal workers (those workers who are self-employed or employed as casual workers or regular workers but do not have social security) in total employment in organized (or formal) manufacturing has increased over time. It rose from 57 per cent in 1999–2000 to 68 per cent in 2011–12 according to the estimates of Ghose (2016). A similar picture emerges if one looks at a different dimension of quality of industrial jobs, namely employment through contractors rather than being directly employed by the industrial enterprise. The share of contract workers (i.e. workers employed through contractors) in total workers employed by organized manufacturing has increased over time (hereafter termed as contractualization of labour). It rose from about 14 per cent in 1995–96 to about 34 per cent in 2012–13 (Goldar and Suresh 2017; Goldar 2018).

The upward trend in the shares of informal workers and contract workers in organized manufacturing employment has received attention of Indian researchers and policymakers. There is a view that the growing informalization and contractualization of labour in India's organized manufacturing sector is primarily attributable to labour market rigidities caused by labour regulations, principally the provisions of the Industrial Disputes Act (IDA) which is the dominant component of employment protection legislation¹ (EPL) in India. Using Annual Survey of Industries

¹According to Barone (2001), employment protection legislation (EPL) covers the entire set of regulations that place some limits on firms' abilities to hire and fire workers. These regulations may emanate from legislation or court rulings, or it may be there because of col-

(ASI) data, several studies have presented econometric evidence in support of the view that one of the main explanations for the increasing use of contract workers in India's organized manufacturing lies in the labour market rigidities arising from the IDA. In such studies, the Besley-Burgess index (Besley and Burgess 2004) or its variant has often been used for measuring the extent of rigidities in industrial labour markets in different Indian states even though it is known that the index has serious limitations.² Econometric evidence presented in the studies undertaken by Saha et al. (2013), Ramaswamy (2013, 2015), Chaurey (2015), Sapkal (2015) and Kapoor and Krishnapriya (2017) provides empirical support to the view that labour market rigidities arising from EPL (principally IDA) are a prime factor, or at least one of the important factors, responsible for the increased use of contract labour in organized manufacturing.³ There is, however, other econometric research based on ASI data in which a statistically significant positive relationship between EPL and use of contract workers in organized manufacturing has not been found (see, e.g. Goldar and Suresh 2017). Econometric evidence presented in Goldar (2018) indicates that while EPL might have been a contributing factor to contractualization of labour in India's organized manufacturing in the first half of the 2000s, in the more recent period, it has either ceased to be a contributing factor or has gone down in importance as a contributing factor.

Sapkal and Shyam Sundar (2018) have investigated econometrically what factors determine the decision of individuals to take up a temporary contract employment in India. They have used unit-level data drawn from Employment-Unemployment Survey (EUS) of the National Sample Survey Office (hereafter, NSS EUS) for 2009–10 and 2011–12 and come

lectively bargained conditions on employment or customary practices (OECD, *Employment Outlook*, June 1999, Chapter 2, p. 50). Industrial Disputes Act (IDA) is the most important component of EPL in India. There are, however, regulations other than IDA, which may be considered as a part of EPL. These include the Industrial Employment (Standing Orders) Act, the Factories Act and the Contract Labour Act (CLA). In the Indian context, Dougherty et al. (2011) have used a relatively more comprehensive measure of EPL, going beyond IDA.

²For an extensive discussion on the limitations of the Besley-Burgess index, see Bhattacharjya (2006, 2009a, b).

³Other studies expressing such a view include Ahsan and Pagés (2008), Kapoor (2014) and Das et al. (2015). It may be mentioned here that Das and associates have drawn attention to the ruling by the Supreme Court in 2001 which interpreted the CLA, 1970, in the case of Steel Authority of India v. National Union Water-Front Workers. They point out that this judicial interpretation has led to increased flexibility in the Indian labour market, enabling firms to employ 'contract' workers widely.

to the conclusion that precarious employment is most pronounced in states where labour-intensive industries are exposed to global import competition and where labour laws are rigid. This finding of Sapkal and Shyam Sundar that the phenomenon of precarious employment is connected with rigid labour laws is in conformity with the findings of Goldar and Aggarwal (Goldar and Aggarwal 2012, 2014) on the effects of labour market reforms on job quality in manufacturing. Goldar and Aggarwal have used NSS EUS data for their analysis and found that labour market reforms encourage industrial firms to hire regular workers rather than casual workers.

The issue of informalization/contractualization of industrial labour noted earlier needs to be seen in the context of the current employment situation in India⁴ and the need for enhancing job creation and improving the quality of jobs. The debate now is not only about the ‘jobless growth’ but also about the ‘informalization’ of jobs (with issues raised about the dichotomy of formal vs. informal sector and formal vs. informal jobs), and the focus of the economic writings is on creation of more formal jobs.⁵ The matter has become a subject of debate lately because no credible and periodic data on employment are available in India for the recent years.⁶ The debate about informalization of employment especially in the formal sector is, however, a part of a larger debate about the generation of employment in the overall economy. It has been argued that in the current juncture of India’s economic development, India cannot afford to bypass its industrial sector in pursuit of a services-led development strategy, but it needs to give a major push to her manufacturing industries in order to generate sufficient number of jobs in the economy (see, in this context, Ghose 2015, 2016; Goldar 2017).⁷

In this chapter, we make an attempt to provide some clarity to the debate on the employment situation in India, particularly concerning the

⁴India needs to create at least eight million jobs annually as it adds 1.3 million to the working-age population every month.

⁵The World Bank in *World Development Report* (2019) has emphasized that India has to create more formal jobs.

⁶The National Sample Survey Organization (NSSO) Employment and Unemployment Survey data are available only for 2011–12. The Labour Bureau has provided estimates of employment for subsequent years till 2015–16 based on five annual Employment and Unemployment Surveys, but the published data do not contain any information on the formal-informal nature of employment.

⁷The ‘Make in India’ policy initiative is a consequence of this realization.

issue of creation of more formal jobs in the economy by (a) analysing the trends in informalization and contractualization of labour in organized manufacturing, (b) looking into the variations across industries and across states and (c) going into the reasons underlying the increasing informalization/contractualization of labour in India's organized manufacturing. A question of specific interest is whether EPL has been one of the important factors responsible for informalization/contractualization of labour in India's organized manufacturing. The analysis is undertaken by using the unit-level data from NSS EUS and ASI for organized manufacturing.

The rest of the chapter is organized as follows. The next section deals with some conceptual issues and Sect. 3 with research methodology and data used in the present study. Analysis of trends of informalization in the Indian manufacturing across industries and across states based on NSS EUS data and such analysis of trends in contractualization are presented in Sects. 4 and 5, respectively, the latter section containing a comparison of trends. In Sect. 6, the trends in informalization and contractualization are compared between states with flexible labour markets and those with inflexible labour markets, in an attempt to relate the degree of EPL-induced rigidities in various states with the trends in informalization and contractualization. In Sect. 7, econometric models are estimated using data for 2011–12 to explain cross-sectional variation in informalization and contractualization of labour in organized manufacturing with the intent of judging whether the inter-state differences in the extent of informalization and contractualization of labour in organized manufacturing bear a relationship with inter-state differences in the degree of labour market rigidities prevailing in the states (caused by EPL). Finally, the last section sums up the main findings and concludes.

2 ORGANIZED VERSUS UNORGANIZED SECTOR AND FORMAL VERSUS INFORMAL EMPLOYMENT

In the Lewis (1954) model, the organized sector was supposed to be driven by a capitalist growth model and the unorganized sector having an unlimited supply of reserve labour which could be a source for the organized sector whenever it needed it. The informal or unorganized⁸ sector was supposed to be technologically backward with low productivity and

⁸The terms informal and unorganized are generally used interchangeably in the literature in India (NCEUS 2007).

with weak or no link with the modern sector. However, in the contemporary world, the link between the formal and informal sector is strong, and the activities in the informal economy are directly linked to and often are part of the process of production and exchange. Now, the informal sector has a lot of flexibility which helps in depressing costs, in both the short and the long run (Bhattacharya 2018). However, in the era of globalization, a new process of creating informality has come to the fore. It has resulted from the processes of ‘rationalization’ and ‘restructuring’ in the formal sector. This informalization occurs either when the formal sector firm itself creates informal employment or when the people are forced to the informal economy for their survival because of either downsizing of labour by the firms or some structural adjustment. There are two routes through which informalization of labour takes place in the formal sector. First, the firm employs on its premises workers directly on informal basis (like temporary, casual, trainees, etc.) or indirectly through a contractor (contract workers) without any permanent contract and without many employment benefits. Second, the firm contracts out operations to smaller or specialized enterprises outside. Such workers are generally supplied to the principal firm by informal sector enterprises, sometimes may be even by large manufacturing or service firms—workers in these are most likely denied many rights. Informalization, in that sense, is now no longer part of dualistic economy but is prevalent in a whole range of occupations (Bhattacharya 2018). It is because of these structural adjustments that have taken place in India, we find that informalization within the organized/formal sector have increased over time. However, it is also observed that contrary to informalization in formal sectors, there also exist cases of formalization of employment in the informal sectors. The formalization in the informal sector happens due to the fact that even in the informal sector enterprises, there may now be some employees who not only have longer contracts of employment but are also assured of social security contributions. It is all the more necessary where scarce talent is to be attracted and retained.

In India, many attempts have been made by the scholars to estimate employment in the formal-informal sectors as well as the formal-informal employment (e.g. Sakthivel and Joddar 2006; NCEUS 2007; Sundaram 2008; Ghose 2016). National Commission for Enterprises in Organized Sector—NCEUS (2007) not only acknowledged formally that in India there is no conceptual clarity between unorganized sector and unorganized employment but it also conceptualized unorganized sector versus unorganized workers (NCEUS 2007, 2). It defined the unorganized

sector as “consisting of all unincorporated private enterprises owned by individuals or households engaged in the sale and production of goods and services operated on a proprietary or partnership basis and *with less than ten total workers*” and the unorganized workers as “those working in the unorganized enterprises or households, *excluding regular workers with social security benefits, and the workers in the formal sector without any employment/social security benefits* provided by the employers” (2007, 2–3; emphasis added). The report further states (*ibid.*, 3) that “The employees with informal jobs generally do not enjoy employment security (no protection against arbitrary dismissal), work security (no protection against accidents and illness at the work place) and social security (maternity and health care benefits, pension, etc.) and therefore any one or more of these characteristics can be used for identifying informal employment”. Therefore, based mainly on the availability or non-availability of social security to the workers within a sector, workers are characterized as formal or informal workers.

3 DATA AND METHODOLOGY

The basic data sources for this study are mainly two: the unit-level data of NSS EUS rounds of 1999–2000 (55th round) and 2011–12 (68th round) and the unit-level data of ASI of the corresponding years. The above-mentioned two NSS surveys have been selected as these are the first and the last NSS EUS which can be used directly to estimate separately organized and unorganized sector employment. ASI data have therefore been taken for the corresponding years.

Since 1999–2000, NSSO surveys provide information about the type of enterprises, the number of workers and whether the enterprise uses electricity. From these, one can discern about the nature of enterprise and whether it belongs to organized or unorganized sector. Organized sector employment is defined as the workers employed in either (a) government/public sector enterprises (code 5) or in public/private limited company (code 6) or cooperative societies/trusts/other non-profit institutions (code 7), or (b) in other manufacturing enterprises employing 20 and more workers or using electricity and employing 10 or more than 10 workers (Sundaram 2008).

The methodology used in this study to estimate the formal and informal employment within the organized sector of manufacturing is based on the definition given by NCEUS and the framework given by Sastry (2004),

which is similar to the ILO framework. As per this framework, informal worker category includes all the workers in the proprietary and partnership firms, except the regular and salaried workers with social security.⁹ It also includes all other unpaid family workers, all casual workers and any other worker without social security working in government/public sector (code 5), public/private limited company (code 6) and cooperative societies/trust/other non-profit institutions (code 7). So, formal workers by the ILO framework include only workers who have social security and are working in government/public sector (code 5), public/private limited company (code 6) and cooperative societies/trust/other non-profit institutions (code 7) and are (a) own account workers (code 11); (b) employers (code 12); and (c) regular employees (code 31) in any type of enterprises.

Using the NSS data, the extent of informal employment in organized manufacturing is estimated for 1999–2000 and 2011–12, disaggregated by industries and states. It should be pointed out that the analysis is confined to 18 major states (Andhra Pradesh, Assam, Bihar, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal). In the cases of Bihar, Madhya Pradesh and Uttar Pradesh, the bifurcation of these states that took place in 2000 introduces a problem of data comparability. Accordingly, Bihar has been combined with Jharkhand, Madhya Pradesh with Chhattisgarh and Uttar Pradesh with Uttarakhand so that comparable data are obtained for these states for 1999–2000 and 2011–12. As regards industrial classification, 22 industries are considered. The list of industries chosen for the study is by and large according to the two-digit industries of national industrial classification (NIC), NIC-2008 (the list of industries along with NIC codes may be seen in Table 4.3). Since the data for 1999–2000 in NSS EUS are available according to NIC-1998, whereas the data for 2011–12 are available according to NIC-2008, concordance between the two classifications have been worked out so that the industry-wise estimates for these two years may be compared (applies also to ASI data).

⁹The information on social security in the 55th round is available from coverage under the Employees' Provident Fund (EPF). So, the regular employees with EPF coverage are included as formal employees. In the 68th round, the information is available about the type of job contract and social security contribution.

From ASI unit-level data, similarly, the share of contract workers in total workers has been obtained for different industries and states for the years 1999–2000 and 2011–12. In this case, again, the analysis is confined to 18 major states listed earlier, and the same 22 industries have been considered as in the case of NSS EUS data. The trends in informalization in different industries and states have been compared with the trends in contractualization. The aim is to find out whether, across states and across industries, we find similar trends with respect to the two indicators.

To investigate the hypothesized effect of EPL on informality (as broadly defined earlier), the trends in informalization and contractualization have been studied for different industries separately for states with flexible labour markets (hereafter flexible states) and states with inflexible labour markets (hereafter inflexible states). The purpose is to find out if the pace of informalization/contractualization was greater in inflexible states than in flexible states.

A brief discussion on the classification of states into ‘flexible’ and ‘inflexible’ would be in order here. Following Ramaswamy (2015) and Sapkal (2015), who basically go along the Besley-Burgess methodology, the following states have been treated as flexible (i.e. states having flexible labour markets): Andhra Pradesh, Gujarat, Karnataka, Rajasthan, Tamil Nadu and Uttar Pradesh. The rest of the states out of the 18 states considered for the study have been treated as inflexible.¹⁰ Uttarakhand has been treated as neutral (neither flexible nor inflexible) by Ramaswamy (2015) and Sapkal (2015). Following Kapoor and Krishnapriya (2017), Uttarakhand has been classified as ‘flexible’ in this study also.¹¹

¹⁰A majority of the 11 states which have been treated as inflexible in this study have been treated so also by Gupta et al. (2009). But Kapoor and Krishnapriya (2017) treat only 3 out of these 11 states as inflexible. Gupta et al. (2009) treat Haryana as flexible, and Kapoor and Krishnapriya (2017) treat it as neutral, whereas Ramaswamy (2015) and Sapkal (2015) treat Haryana as inflexible. Obviously, the classification of States into flexible and inflexible differs from study to study.

¹¹Kapoor and Krishnapriya have followed Gupta et al. (2009) who have presented a composite measure of labour regulations in various States, making use of information taken from Besley and Burgess (2004), Bhattacharjea (2008) and OECD (2007). Gupta et al. (2009) give their measure of labour regulations for Uttar Pradesh, but it is not separately given for Uttarakhand. Therefore, in this study, Uttar Pradesh and Uttarakhand have been treated in a similar way, as done by Kapoor and Krishnapriya. This becomes necessary because in the 1999–2000 NSS EUS data, the two states cannot be separated. In this context, it may be pointed out that Dougherty (2008) gives a score of 6 to Uttar Pradesh and 5 to Uttarakhand (out of a maximum possible score of 9) for transaction cost reducing actions taken by these

To gain further insight into the impact of labour market rigidities on the quality of jobs in organized manufacturing, the comparison of trends in informalization and contractualization between flexible and inflexible states is followed up by an econometric analysis. Using unit-level data of NSS EUS and unit-level data of ASI, econometric models have been estimated. The analysis is done for 2011–12. This is explained later in Sect. 7.

4 TRENDS IN INFORMALIZATION IN ORGANIZED MANUFACTURING EMPLOYMENT

Table 4.1 shows the distribution of employment between organized and unorganized sectors of manufacturing for the aggregate of 18 major states of India in the years 1999–2000 and 2011–12. These estimates, which are based on NSS EUS, indicate that between 1999–2000 and 2011–12, the share of the organized sector in aggregate manufacturing employment went up and the share of the unorganized sector came down by about 10 percentage points, from 74 per cent to 64 per cent.¹²

A further analysis of the distribution of workers within organized and unorganized sectors with regard to the nature of employment, formal or informal (presented in Table 4.2), reveals that within the organized sector, there was a high incidence of informal employment even in 1999–2000—the share of informal workers was 57 per cent. But, it seems, the process

Table 4.1 Share of organized and unorganized sectors in total manufacturing employment in selected major states (%)

<i>Sector</i>	<i>1999–2000</i>	<i>2011–12</i>
Organized	25.8	35.6
Unorganized	74.2	64.4
Total	100.0	100.0

Source: NSS EUS and authors' computations

Note: The table has been prepared using data for 18 selected major states; the list provided in Sect. 3. This applies also to all other tables in the chapter

two states in regard to IDA which is more than the all-state average of 4.2. Thus, there is some further justification for treating Uttar Pradesh and Uttarakhand in the same way.

¹²Our estimates are based on NCEUS (2007) and IHD (2014) and hence differ from the estimates presented in Goldar and Aggarwal (2017) where we follow Sundaram (2008).

Table 4.2 Distribution of formal/informal workers in organized/unorganized sectors of manufacturing industries in selected major states (%)

<i>Sector/workers</i>	<i>1999–2000</i>			<i>2011–12</i>		
	<i>Informal workers</i>	<i>Formal workers</i>	<i>Total</i>	<i>Informal workers</i>	<i>Formal workers</i>	<i>Total</i>
Organized	57.0	43.1	100.0	72.2	27.8	100
Unorganized	97.5	2.6	100.0	99.4	0.6	100
Total	87.0	13.0	100.0	89.7	10.3	100

Source: NSS EUS and authors' computations

of informalization became faster during the first decade of the twenty-first century, a major explanation for which probably lies in the quicker pace of development along with the opening up of the Indian economy. The Indian industry had to adjust to the new realities of the market and cut costs, leading to outsourcing of some of the processes and services to informal enterprises and hiring of workers either as temporary or on contract. Thus, in the 12-year period from 1999–2000 to 2011–12, the share of informal employment within the organized manufacturing sector among major states in India increased by about 15 percentage points, from 57 per cent to 72 per cent.¹³

The trend of increasing informalization in manufacturing has also affected the unorganized sector and within it also there is evidence that informalization has increased, though marginally by only 2 percentage points. But, because of the predominance of the informal employment, the increase in overall employment share of informal workers in manufacturing has been from 87 per cent to 89.7 per cent. It is thus evident that there has been *some* increase in informalization of employment in the Indian manufacturing sector in the 2000s, and it has been more pronounced in the organized manufacturing sector.

¹³These estimates are by and large in line with the estimates presented in Ghose (2016). An increase in the share of informal workers in organized manufacturing between 2004–05 and 2011–12 has been reported also by Mehrotra et al. (2014).

4.1 Industry-Wise Trends

Table 4.3 shows, for each manufacturing industry, the proportion of workers with formal jobs within the organized segment of the industry between 1999–2000 and 2011–12. It is evident from the table that not only has the overall share of formal workers in the organized manufacturing sector reduced but also the process of informalization is widely spread across various industries, except the following three: wearing apparel, other transport equipment and furniture plus other manufacturing. Two of these three industries, namely wearing apparel and furniture plus other manufacturing industries had, in 1999–2000, a very low proportion of

Table 4.3 Employment share of formal workers in organized sector of manufacturing industries in selected major states, by industry (%)

<i>Industry (NIC-2008 codes in parentheses)</i>	<i>1999–2000</i>	<i>2011–12</i>
Food products (10)	42.7	30.6
Beverages (11)	43.0	21.8
Tobacco products (12)	47.0	10.2
Textiles (13)	36.8	23.7
Wearing apparel (14)	19.7	21.8
Leather and related products (15)	26.5	15.3
Wood and products of wood and cork, except furniture; manufacture of articles of straw and plaiting materials (16)	14.5	4.8
Paper and paper products (17)	50.9	39.5
Printing and reproduction of recorded media + Publishing activities (58 + 18)	61.8	43.7
Coke and refined petroleum products (19)	59.3	42.6
Chemicals and chemical products (20)	53.5	31.3
Pharmaceuticals, medicinal chemical and botanical products (21)	65.4	47.0
Rubber and plastics products (22)	43.4	35.2
Other non-metallic mineral products (23)	14.7	5.1
Basic metals (24)	59.2	40.4
Fabricated metal products, except machinery and equipment (25)	47.5	33.0
Machinery and equipment n.e.c. (28)	62.8	57.7
Computer, electronic and optical products (26)	57.1	56.3
Electrical equipment (27)	65.2	41.5
Motor vehicles, trailers and semi-trailers (29)	72.7	55.8
Other transport equipment (30)	61.1	61.3
Furniture + Other manufacturing (31 + 32)	7.3	9.2
Total (all manufacturing industries)	43.1	27.8

Source: NSS EUS and authors' computations

formal workers within their organized sector segment, and it seems these industries have subsequently tried to organize themselves into a more formal structure.

Among the manufacturing industries, the hike in informalization was relatively greater (more than 20 percentage points) in beverages, tobacco products, chemicals and chemical products, and electrical equipment. This may have something to do with external competition these industries had to face with liberalization of external trade.

4.2 State-Wise Trends

Table 4.4 brings out that between 1999–2000 and 2011–12, the share of the formal workers in employment in organized sector of manufacturing fell by over 20 percentage points in the states of Andhra Pradesh, Bihar

Table 4.4 Share of formal workers in organized sector of manufacturing industries in major states (%)

<i>State</i>	<i>1999–2000</i>	<i>2011–12</i>
Andhra Pradesh	57.6	32.0
Assam	31.1	36.1
Bihar ^a	49.9	13.3
Delhi	26.0	25.2
Goa	71.3	83.5
Gujarat	28.2	21.9
Haryana	40.9	31.9
Himachal Pradesh	40.1	31.3
Karnataka	46.5	49.5
Kerala	34.0	20.7
Madhya Pradesh ^a	38.1	30.4
Maharashtra	54.1	37.8
Orissa	63.5	33.7
Punjab	27.6	24.6
Rajasthan	40.8	16.9
Tamil Nadu	38.8	26.7
Uttar Pradesh ^a	36.1	16.0
West Bengal	56.5	22.9
Total	43.1	27.8

Source: NSS EUS and authors' computations

^aThese states include the newly carved states out of them to make them comparable with the old states before their bifurcation. So for 2011–12, Bihar is combined with Jharkhand; Madhya Pradesh with Chhattisgarh; and Uttar Pradesh with Uttarakhand

(including Jharkhand), Orissa, Rajasthan, Uttar Pradesh (including Uttarakhand) and West Bengal. By contrast, the share fell by 10–20 percentage points in the states of Kerala, Maharashtra and Tamil Nadu. Interestingly, Goa witnessed an increase in formalization rather than an increase in informalization.

Among the major states, the share of formal employment in the organized sector in manufacturing employment in 1999–2000 was high (more than 50 per cent) in Andhra Pradesh, Goa, Maharashtra, Orissa and West Bengal. By contrast, in 2011–12, only the state of Goa had more than 50 per cent share of formal employment in organized sector manufacturing employment. Most of the states in India have thus experienced informalization of employment in organized manufacturing.

5 CONTRACTUALIZATION IN ORGANIZED MANUFACTURING, COMPARISON WITH INFORMALIZATION

ASI data reveal that the share of contract workers in total workers employed in the organized manufacturing (with respect to the 18 major states covered in the study) increased by about 15 percentage points between 1999–2000 and 2011–12 (see Appendix Table 4.11), from about 20 per cent in 1999–2000 to about 35 per cent in 2011–12. It has been noted earlier that between 1999–00 and 2011–12, the share of informal workers in the organized manufacturing increased by about 15 percentage points, up from 57 per cent to 72 per cent. Thus, at the aggregate level, there is a remarkable match or similarity between the observed trends in informalization and contractualization in India's organized manufacturing from 1999–2000 to 2011–12. However, when the employment shares of informal workers and contract workers are considered for different industries and different states in the year 2011–12 or when changes in these shares between 1999–2000 and 2011–12 are considered, a great deal of dissimilarity is found.

In Table 4.5, an industry-wise comparison for 2011–12 is made between the proportion of contract workers out of total workers employed computed from ASI data and the proportion of informal workers out of total workers computed from NSS data for organized manufacturing. In Table 4.6, a similar comparison is made state-wise.

It is interesting to note from Table 4.5 that while the employment share of contract workers is only about 14 per cent in textiles and wearing apparel, the employment share of informal workers in these indus-

Table 4.5 Share of informal workers in total workers, and share of contract workers in total workers, organized manufacturing, 2011–12, by industry (%)

<i>Industry</i>	<i>Informal workers</i>	<i>Contract workers</i>
Food products	69.4	30.1
Beverages	78.2	51.0
Tobacco products	89.8	64.0
Textiles	76.3	14.4
Wearing apparel	78.2	14.0
Leather and related products	84.7	19.5
Wood and products of wood and cork, except furniture; manufacture of articles of straw and plaiting materials	95.3	24.5
Paper and paper products	60.6	28.0
Printing and reproduction of recorded media + Publishing activities	56.3	22.8
Coke and refined petroleum products	57.4	42.9
Chemicals and chemical products	68.7	34.7
Pharmaceuticals, medicinal chemical and botanical products	53.0	43.4
Rubber and plastics products	64.9	31.3
Other non-metallic mineral products	94.9	55.9
Basic metals	59.6	44.4
Fabricated metal products, except machinery and equipment	67.0	44.4
Machinery and equipment n.e.c	42.3	31.6
Computer, electronic and optical products	43.8	37.5
Electrical equipment	58.5	34.7
Motor vehicles, trailers and semi-trailers	44.2	44.8
Other transport equipment	38.7	48.2
Furniture + Other manufacturing	90.8	22.6
Total	72.2	34.5

Source: NSS EUS, unit level data of ASI and authors' computations

Note: The table has been prepared using data for 18 selected major states

tries is in excess of 75 per cent. A similar pattern is observed for Leather and leather products, Wood and wood products and Furniture and other manufacturing industries group. It may accordingly be inferred that in these industries, a large portion of workers directly employed by the firms have an informal job. On the other hand, the employment share of informal workers is relatively low in motor vehicles and other transport equipment; non-electrical machinery; and computers, electronic and optical products. The employment share of contract workers

Table 4.6 Share of informal workers in total workers, and share of contract workers in total workers, organized manufacturing, 2011–12, by state (%)

<i>State</i>	<i>Informal workers</i>	<i>Contract workers</i>
Andhra Pradesh	68.0	49.2
Assam	63.9	21.2
Bihar ^a	86.7	48.0
Delhi	74.8	8.9
Goa	16.5	41.8
Gujarat	78.1	35.1
Haryana	68.1	50.5
Himachal Pradesh	68.7	23.1
Karnataka	50.5	22.1
Kerala	79.3	14.8
Madhya Pradesh ^a	69.6	38.8
Maharashtra	62.2	40.5
Orissa	66.3	48.4
Punjab	75.4	28.4
Rajasthan	83.2	37.2
Tamil Nadu	73.3	19.6
Uttar Pradesh ^a	84.0	42.9
West Bengal	77.1	32.6
All	72.2	34.5

Source: NSS EUS, unit level data of ASI and authors' computations

^aSee note below Table 4.4

is slightly higher than the employment share of informal workers in some of these industries (e.g. Other transport equipment), and in some other cases, the share of informal workers is lower than the share of contract workers by around 10 percentage points (e.g. Non-electrical machinery) or less. Evidently, it may be inferred that in these five industries, most of the workers directly engaged by the factories hold a formal job. Thus, it appears that informalization in these five industries have occurred primarily through the use of contract labour. Across industries, the correlation coefficient between the employment share of informal workers and the employment share of contract works is found to be $(-)$ 0.10. The fact that the correlation coefficient is negative when a positive one is expected and the fact that the correlation coefficient is statistically insignificant reflect the dissimilarity between the extent of informalization and contractualization in the organized sector of different manufacturing industries.¹⁴

¹⁴In trying to explain the observed negative correlation, one possibility that deserves attention is that the need for (and hence employment of) contract labour tends to be more for those firms who have less opportunity of employing workers on an informal basis (because

The state-wise comparison presented in Table 4.6 also shows a good deal of dissimilarity.¹⁵ There are states with very high employment share of informal workers but relatively low share of contract workers. These include Delhi, Punjab and Kerala. In Karnataka, both the employment shares of informal workers and of contract workers are relatively low. This has perhaps something to do with the relatively more flexible labour markets in Karnataka.

Across states, the correlation coefficient between the employment share of informal workers and the employment share of contract works is found to be $(-)$ 0.07. One may feel that the correlation coefficient should be positive because if there is tendency towards high informalization among industrial workers in a state, the share of contract worker in industrial enterprises in the state should also be high. But, there are grounds to expect a negative correlation coefficient also, going by the explanation given earlier for the observed negative correlation coefficient across industries. What is important to note is that the numerical value of the correlation coefficient is very low, and it is statistically insignificant, which reflects dissimilarity between the state-wise estimates of informalization and contractualization in organized manufacturing.

Industry-wise data on the employment share of contract workers presented in Appendix Table 4.11 bring out that the increase in the employment share of contract workers between 1999–2000 and 2011–12 was relatively higher in the following industries: motor vehicles, other transport equipment, electrical machinery, non-electrical machinery, basic metals and beverages. This may be contrasted with the industries in which there was relatively large fall in the share of formal employment (beverages, tobacco products, printing, basic metals, electrical equipment and chemicals and chemical products). Between the two sets of six industries each, only three are common, bringing out the dissimilarity.

of labour laws or strong unions or large plant size). Such firms therefore tend to have more formal (permanent) jobs for the workers directly employed by them. On the other hand, those firms which can easily have informal workers do not have the pressure to go for contract workers. This is an interesting hypothesis. It has, however, not been possible to empirically verify this as the required data could not be obtained.

¹⁵The dissimilarity observed across industries and across states seems to be a reflection of substitution within informality as highlighted by Prof. L.K. Deshpande and associates in their Bombay study of labour flexibility (Sudha Deshpande et al. 1998). Also see, in this context, Lalit K. Deshpande et al. (2004).

Considering state-wise data on the employment share of contract workers presented in Appendix Table 4.12, it is found that among the 18 states considered for the study, the increase in the employment share of contract workers between 1999–2000 and 2011–12 was relatively higher in West Bengal, Maharashtra, Haryana and Goa.

Based on Table 4.4, it has been noted earlier that between 1999–2000 and 2011–12, the share of the formal workers in organized sector in manufacturing employment fell by over 20 percentage points in six states. Out of these six, only in the case of West Bengal, there has been relatively high increase in the employment share of contract workers. Again, this shows the dissimilarity.

A pertinent question that arises here is: why do the estimates of employment share of informal workers across industries and states differ so much from the estimated employment share of contract workers. It appears that a part of the explanation for the difference lies in the nature of EUS and ASI surveys and the concepts used in them. The estimate of employment share of informal workers is based on NSS EUS which is a household survey. The estimate of employment share of contract workers is, on the other hand, based on ASI which is a survey of enterprises. A household survey and an enterprise survey need not yield same or similar estimates of a parameter of interest. Rather, it seems likely that the estimates will differ because the respondents in the surveys are different and the concepts used are different. Yet, it would be wrong to dismiss altogether the observed large differences in the employment share of informal workers and the employment share of contract workers on the ground that this is merely or largely a consequence of the nature of surveys in which the data have been collected. Rather, there are possibly more *substantive* causes of the observed differences. It seems reasonable to argue that informalization and contractualization are two distinct phenomena with some degree of overlap, and this gets reflected in the comparison between the levels of informalization and contractualization and the differences in rates of change that may be observed from Tables 4.3, 4.4, 4.5, and 4.6 and Appendix Tables 4.11 and 4.12.

Even though there is mismatch between the estimates of employment shares of informal workers and contract workers, both sets of data are important and need to be considered together for gaining a good understanding of the changes that are taking place in the quality of jobs in orga-

nized manufacturing. It is by studying both aspects that one can hope to get a proper handle on the issues concerning quality of jobs in organized manufacturing.

6 IMPACT OF LABOUR MARKET RIGIDITIES

Table 4.7 provides an indication of the changes in the employment share of formal workers in various industries (organized sector segment) between the years 1999–2000 and 2011–12, shown separately for the flexible states and the inflexible states (listed earlier in Sect. 3 and at the bottom of the table). If one believes that labour market rigidities are the main cause (or a major cause) of informalization of labour in organized manufacturing, one would expect the fall in employment share of formal workers to be greater for inflexible states than flexible states. This is, however, not borne out by Table 4.7. At the aggregate level, the employment share of formal workers fell from 12.57 per cent in 1999–2000 to 9.81 per cent in 2011–12 in the flexible states, and the fall was from 13.42 per cent to 10.79 per cent in the inflexible states. Clearly, the fall is not distinctly greater in inflexible states than flexible states. Going into industry-wise details, it is found that in some industries, the fall in the share of informal workers between 1999–2000 and 2011–12 was relatively bigger for inflexible states (e.g. textiles, paper and paper products, coke and refined petroleum products and motor vehicles), but in several other industries, the opposite pattern is seen. Thus, the data presented in Table 4.7 do not lend support to the hypothesis that labour market rigidities, particularly EPL, hold the prime responsibility or a major responsibility for the increasing informalization in India's organized manufacturing.

Table 4.8 is similar to Table 4.7. It shows the share in contract workers in different industries in 1999–2000 and 2011–12, separately for flexible and inflexible states. It is seen from Table 4.8 that the increase in employment share of contract workers between 1999–2000 and 2011–12 was greater for inflexible states than flexible state. This pattern is observed at the aggregate level as also for many of the industries. This observed pattern does not by itself validate the hypothesis that labour market rigidities have been responsible for the increasing use of contract labour in India's organized manufacturing. However, it does point in that direction.

Table 4.7 Share of formal workers in organized manufacturing industries, 1999–2000 and 2011–12, comparison among two categories of Indian states according to labour market flexibility (%)

<i>Industry</i>	<i>Flexible states</i>		<i>Inflexible states</i>	
	<i>2011–12, 68th Round</i>	<i>1999–2000, 55th Round</i>	<i>2011–12, 68th Round</i>	<i>1999–2000, 55th Round</i>
Food products	10.41	11.75	11.39	9.90
Beverages	10.56	9.66	18.53	15.49
Tobacco products	0.32	16.82	1.09	1.37
Textiles	5.92	7.52	9.14	14.15
Wearing apparel	4.85	4.26	2.65	5.27
Leather and related products	13.75	9.07	5.84	6.27
Wood and products of wood and cork, except furniture; manufacture of articles of straw and plaiting materials	0.63	0.28	0.13	0.50
Paper and paper products	30.34	23.97	24.04	43.30
Printing and reproduction of recorded media + Publishing activities	14.4	18.32	13.94	16.26
Coke and refined petroleum products	62.48	51.33	33	50.98
Chemicals and chemical products	19.91	27.31	31.62	37.81
Pharmaceuticals, medicinal chemical and botanical products	44.23	47.26	43.74	58.31
Rubber and plastics products	27.78	29.81	24.15	28.21
Other non-metallic mineral products	3.59	4.04	3.06	5.14
Basic metals	21.09	22.57	40.55	47.46
Fabricated metal products, except machinery and equipment	16.84	19.75	7.49	18.43
Machinery and equipment n.e.c	54.74	60.4	52.33	37.62
Computer, electronic and optical products	38.46	46.33	49.14	40.40
Electrical equipment	33.64	38.43	33.33	38.06
Motor vehicles, trailers and semi-trailers	36.22	31.7	52.95	71.27
Other transport equipment	63.49	71.01	48.85	23.58
Furniture + Other manufacturing	2.18	0.93	2.31	2.43
Total	9.81	12.57	10.79	13.42

Source: NSS EUS and authors' computation

Note: The flexible States are Andhra Pradesh, Gujarat, Karnataka, Rajasthan, Tamil Nadu and Uttar Pradesh (including Uttarakhand). All other States out of the 18 covered in the study are classified as inflexible states

Table 4.8 Share of contract workers in organized manufacturing industries, 1999–2000 and 2011–12, comparison among two categories of Indian states according to labour market flexibility (%)

<i>Industry</i>	<i>Flexible states</i>		<i>Inflexible states</i>	
	<i>1999–2000</i>	<i>2011–12</i>	<i>1999–2000</i>	<i>2011–12</i>
Food products	22.36	37.00	15.84	23.03
Beverages	26.21	54.41	27.36	47.15
Tobacco products	76.48	78.31	25.75	26.84
Textiles	10.87	13.20	5.67	16.21
Wearing apparel	2.77	11.17	13.77	24.29
Leather and related products	14.47	11.66	9.65	40.11
Wood and products of wood and cork, except furniture; manufacture of articles of straw and plaiting materials	8.71	26.74	9.43	22.65
Paper and paper products	21.49	27.04	20.14	29.54
Printing and reproduction of recorded media + Publishing activities	5.70	25.14	7.28	19.36
Coke and refined petroleum products	28.65	55.26	27.10	35.62
Chemicals and chemical products	16.88	32.48	16.85	39.57
Pharmaceuticals, medicinal chemical and botanical products	29.83	46.93	12.73	37.98
Rubber and plastics products	10.86	31.94	11.41	30.46
Other non-metallic mineral products	30.72	49.05	35.64	64.31
Basic metals	24.00	41.36	19.30	45.96
Fabricated metal products, except machinery and equipment	28.99	44.02	16.23	44.88
Machinery and equipment n.e.c	11.08	31.49	7.22	31.82
Computer, electronic and optical products	4.90	38.85	15.10	35.76
Electrical equipment	10.98	30.43	13.34	40.21
Motor vehicles, trailers and semi-trailers	10.54	41.11	15.05	48.63
Other transport equipment	9.05	48.30	10.66	48.19
Furniture + Other manufacturing	23.94	17.90	19.35	30.95
Total	23.59	33.29	15.17	36.20

Source: ASI unit level data and authors' computation

Note: On the division between flexible states and inflexible states, see note below Table 4.7

7 ESTIMATES OF ECONOMETRIC MODELS

As mentioned earlier, two econometric models have been estimated using cross-sectional data for 2011–12 to investigate whether informalization and contractualization are primarily (or in a major way) a consequence of labour market rigidities, particularly EPL. The results are presented in Tables 4.9 and 4.10.

Table 4.9 Logit model estimates, explaining dichotomy between formal and informal employment, 2011–12

<i>Explanatory variables</i>	<i>Coefficient</i>	<i>t-Ratio</i>
Age	-0.037	-7.94*
Gender dummy (male = 1)	0.101	0.61
Rural area dummy	0.013	0.11
Social group dummy (SC, ST, OBC = 0; others = 1)	-0.084	-0.51
Educational category dummies below primary education (bench mark)		
Primary	0.048	0.20
Middle	-0.650	-3.29*
Secondary	-1.062	-5.21*
Higher secondary	-1.439	-6.50*
Diploma/certificate	-3.086	-11.05*
Graduate	-2.225	-10.29*
Post-graduate	-2.636	-8.37*
Flexible states dummy	-0.029	-0.27
No. of observations	6211	
Wald Chi-square (<i>P</i> -value)	641.1 (0.000)	
Pseudo R-squared	0.249	

Source: NSS EUS and authors' computation

Note: On the division between flexible states and inflexible states, which is used for constructing the dummy variable, see note below Table 4.7

*represents statistical significance at 1% level

To study the impact of EPL on informalization, cross-sectional data on workers employed in organized manufacturing industry has been taken from NSS EUS. The employment status of the worker (whether she/he has a formal job or an informal job) is taken as the dependent variable. The explanatory variables considered are age, gender and education of the worker, whether she/he is living in an urban area or rural area (dummy variable) and whether she/he belongs to Scheduled Castes/Scheduled Tribes/Other Backward Classes (SC/ST/OBC), capturing the aspect of social group. To measure the impact of EPL, a dummy variable is used, which takes value 1 if the person belongs to a state which has flexible labour market and takes value 0 otherwise. Dummy variables for two-digit industries are included in the model to take care of inter-industry differences. The estimation of the parameters has been done by applying the Logit model. The results are reported in Table 4.9.

Table 4.10 Tobit model estimates, explaining the employment share of contract workers, manufacturing plants, 2011–12

<i>Explanatory variables</i>	<i>Model-1</i>	<i>Model-2</i>	<i>Model-3</i>	<i>Model-4</i>
Plant size	0.227 (52.92)*	0.250 (57.37)*	0.222 (49.18)*	0.245 (53.09)*
Capital intensity	-0.267 (-45.35)*	-0.283 (-46.86)*	-0.262 (-42.77)*	-0.279 (-44.18)*
Located in urban area (dummy)	-0.239 (-19.00)*	-0.077 (-6.07)*	-0.236 (-17.65)*	-0.095 (-7.06)*
Flexible states dummy	-0.089 (-7.18)*	-0.043 (-3.59)*	-0.066 (-5.07)*	-0.027 (-2.13)#
Import Competition			-0.022 (-6.39)*	-0.036 (-6.80)*
Two-digit industry dummies	Not included	Included	Not included	Included
No. of observations	37,622	37,622	33,082	33,082
LR Chi-square	3873.0	6266.9	3353.0	5581.0
Pseudo R-squared	0.061	0.098	0.059	0.098

Source: ASI unit level data and authors' computation

Notes: Plant size = logarithm of value of fixed assets in the plant; Capital intensity = logarithm of ratio of fixed capital stock to total number of persons employed in the plant; Import competition = logarithm of ratio of value of imports to value of domestic production in the four digit industry (according to NIC-2008) to which the plant belongs; Flexible states dummy = if plant is located in a state with flexible labour market is given value one, otherwise zero (see note below Table 4.7)

t-ratios in parentheses

*, # represent statistical significance at 1% and 5% level respectively

Age and education are found to be important in determining the employment status of a worker in organized manufacturing. The probability of being in a formal job goes up with age and education. For organized manufacturing, such findings are expected. It may be pointed out that Sahoo and Neog (2017) in their analysis of NSS EUS data find that the odds of working informally goes down with years of schooling. Further, Goldar and Aggarwal (2012) find that the probability of being in a casual job rather than a regular job goes down with the level of education and age. Similar findings regarding the impact of education have been reported by Goldar and Aggarwal (2014). Evidently, the model results with respect to the age and education variables are consistent with the findings of some earlier studies.

The coefficient of the dummy variable of flexible states is found to be negative, but it is not statistically significant. The results suggest that the odds of being in an informal job are not significantly higher in an inflexible state than in a flexible state. This is consistent with the pattern observed in Table 4.7.

The second econometric model uses plant-level data and makes an attempt to explain the inter-plant variation in the share of contract worker out of total workers employed. The explanatory variables used are size of the plant, capital intensity of the plant, import competition in the four-digit industry to which the plants belong, whether the plant is located in urban areas rather than in rural areas and a dummy variable for flexible states. The estimation of parameters is done by applying the Tobit model, since the dependent variable has to be in the range 0–1. In some versions of the model, dummy variables for two-digit industries have been introduced to take care of inter-industry differences. The model estimates are shown in Table 4.10.

The results suggest that the use of contract workers in a plant goes up with plant size and capital intensity of production. If a plant is located in an urban area, it tends to use less proportion of contract workers than a plant located in rural areas. These results match the results of similar analysis done in Goldar (2018).¹⁶

For the import competition variable (based on trade data taken from World Integrated Trade Solution [WITS] and domestic production data taken from ASI published results), the coefficient is found to be negative and statistically significant. This is in agreement with the results of similar econometric analysis presented in Goldar (2018). This finding is unexpected, but it is possible due to some deficiencies in the import competition variable. This needs further investigation.

An important finding emerging from Table 4.10 is that EPL has a significant positive effect on intensity of contract worker use.¹⁷ This is in line with the findings of a number of earlier studies. Also, this is consistent with the pattern observed in Table 4.8.

One way of reconciling the results reported in Tables 4.7 and 4.8 is that labour regulations, particularly EPL, have a significant effect on the firm's decision to hire contract workers. But the quality of jobs offered to the

¹⁶The finding of a higher incidence of contract labour use in plants located in rural areas than those in urban areas is intriguing. This could be a reflection of union avoidance strategy, involving shutting down of unionized and high real estate value plants and high wage cost plants in urban areas and relocating them to rural areas to take advantage of low costs, including low labour costs, and avail subsidies.

¹⁷This finding is at variance with the model estimates for 2010–11 and 2012–13 presented in Goldar (2018), which used the same set of variable to carry out a very similar analysis. In that study, it was found that the coefficient of inflexible states is positive and statistically significant, when two-digit industry dummies are not included, but not when such dummies are included. How is the difference in results of two very similar studies are to be explained? It seems to us that because in this study only major states are considered which are divided into flexible and inflexible (whereas Goldar 2018 considered all states, including those which are neither flexible nor inflexible), the impact of labour regulations become more clearly discernible.

workers who are directly employed by the firm depends on a bigger set of factors, and the impact of labour regulations is probably not strong with respect to such workers.¹⁸

It is important to draw attention to the fact that direct employment in manufacturing firms does not always mean permanent employment. Rather, directly employed workers may, in many cases, be employed on a temporary basis. Directly employed workers in manufacturing firms include permanent workers, casual workers, statutory trainees, *badli* workers (substitute workers for absenting permanent workers) and so on. Evidently, only a portion of workers directly employed by the firms hold permanent jobs. The fact that direct employment is not equal to permanent employment in manufacturing firms has been brought out by several earlier studies including Shrouti and Nandkumar (1995), Shyam Sundar (1999, 2016), Gopalakrishnan and Mirer (2014), and Bernes et al. (2015). This understanding of the nature of jobs held by industrial workers directly employed by the firms is consistent with the findings of the analysis presented earlier.

Before concluding this section, a brief discussion on the grouping of states into flexible and inflexible would be in order. The amount of confidence one can have on the inferences drawn from the econometric results presented in Tables 4.9 and 4.10 (with regard to the impact of labour regulations on informalization/contractualization in organized manufacturing as reflected by the coefficients of the dummy variable for flexible states) depends obviously on the validity of the flexible-inflexible categorization of states adopted in this study. Since the categorization adopted differs from study to study (refer to Footnote 10), which one is more appropriate is clearly an important question. If the categorization adopted in a study is not valid, the inferences drawn from empirical analysis would obviously be unreliable. This point also applies to the inferences drawn from Tables 4.7 and 4.8 which present comparisons between flexible and inflexible states.

The categorization of states into flexible and inflexible used here follows by and large the categorizations adopted in Ramaswamy (2015) and Sapkal

¹⁸ It seems right to claim that the path to enhancing the quality of jobs in organized manufacturing in India does not necessarily lie in reduction and elimination of contract labour. Rather, as argued by Shyam Sundar (2011), there is a need to extend the institutional regulations to the contract labour system. Accordingly, to improve the terms and conditions of employment of contract workers as well as other non-standard workers, a more effective role of the trade unions through collective organization and collective bargaining is required, and the principal employers need to be involved in this process, with multi-employer bargaining, for success of collective bargaining to yield the desired results.

(2015), which are essentially based on amendments to IDA made by various states, with one modification made here with respect to Uttarakhand by considering the categorization adopted in Kapoor and Krishnapriya (2017). It is important to ask whether the manufacturing plants in states pronounced as ‘flexible’ do really enjoy greater flexibility in adjusting their workforce than their counterparts in states pronounced as ‘inflexible’. To look into this issue, a measure of downward flexibility in employment of directly employed workers has been formed. This measure has been formed on the basis of data on year-to-year changes in the actual employment in factories of the manufacturing sector in the period from 2008–09 to 2012–13 as revealed by the unit-level data of ASI. The question asked is: what proportion of factories with more than 100 directly employed workers in a given year¹⁹ have been able to cut down substantially (by 25 per cent or more) their employment of such workers in the next year (pursuing the line of argument that the higher the said proportion, the higher should be flexibility). This measure is hereafter called downward adjustability of directly employed workers (DADEW). This measure, that is, DADEW, has been computed for each state for each year from 2008–09 to 2012–13, and then an average for each state has been taken as an indicator of flexibility enjoyed by manufacturing plants of the state in downward adjusting the number of workers directly employed by them.

ASI data reveal that among plants having more than 100 directly employed workers in a given year, about one-fifth do actually cut down the employment of such workers by 25 per cent or more in the following year.²⁰ State-wise estimates are shown in Appendix Table 4.13. For flexible states, the average value of DADEW is found to be 20 per cent and for inflexible states, the average value of DADEW is found to be 18 per cent. The difference is in the right direction, but the gap is small. Among flexible states, the value of DEDAW is relatively low for Gujarat (perhaps, not because of difficulties in making such adjustment but because of lesser need for such adjustment). Among inflexible states, the value of DEDAW

¹⁹The threshold level of 100 directly employed workers is adopted because several regulations become applicable as firm crosses that level. Ramaswamy (2015) notes that Chapter-V-B of the IDA requires notice, compensation and permission from government for layoff, retrenchment and closure, if a firm employs more than 100 workers who are permanent in nature and the names appearing in muster roll (pp. 243–44).

²⁰One may ask, does not this fact by itself indicate significant flexibility being enjoyed by industrial firms in adjusting their workforce.

is relatively high for Chhattisgarh (perhaps because of certain state-specific circumstances). If these two states are excluded, the mean value of DEDAW is 21 per cent for flexible states and 17 per cent for inflexible states. Thus, it seems, the manufacturing plants in states categorized as flexible in this study do enjoy somewhat greater flexibility in making a downward adjustment to the number of directly employ workers, which provides justification for the inferences drawn from Tables 4.7, 4.8, 4.9, and 4.10.

8 CONCLUSION

There has been growing informalization and contractualization of labour in India's organized manufacturing during the 2000s which is true probably also for the more recent period. Between 1999–2000 and 2011–12, the share of informal workers in organized manufacturing employment increased from 57 per cent to 72 per cent, and a similar increase was there in the employment share of contract workers—from 20 per cent to 35 per cent. At the aggregate level, there is a striking similarity between the trends in the employment shares of informal workers and contract workers in organized manufacturing, both recording a 15 percentage points increase between 1999–2000 and 2011–12. But this similarity disappears once the trends at disaggregate level—states and industries—are considered. A great deal of dissimilarity is found across states and industries with regard to the levels and rates of change in the employment shares of informal workers and that of contract workers in organized manufacturing. There are states/industries in which industrial firms have reached high informalization without any large-scale use of contract workers. Evidently, a large part of directly employed workers in such firms have been given informal jobs. It follows that the explanation for the deterioration in quality of job in organized manufacturing does not lie solely or primarily in the fact that industrial firms are increasingly replacing directly employed workers by workers supplied by contractor. Rather, the fact that an increasing portion of the workers employed directly by the firms are being given a low-quality job is a major cause of deteriorating quality of jobs in organized manufacturing.

The analysis of trends in informalization and contractualization based on NSS EUS and ASI data, with a segregation being made between flexible and inflexible states has revealed that while the increase in contractualization was faster among inflexible states than among flexible states, this does not hold true for informalization. This finding is corroborated by the results of econometric analysis. The econometric results suggest

that while labour regulations, specifically employment protection legislation has induced substitution of directly employed workers by contract workers and thus led to lowering of job quality, it is probably not an important factor in explaining the process of informalization of labour directly employed by factories.

APPENDIX

Table 4.11 Share of contract workers in total workers, organized manufacturing, by industry, 1999–2000 and 2011–12 (%)

<i>Industry</i>	<i>1999–2000</i>	<i>2011–12</i>
Food products	19.11	30.09
Beverages	26.87	50.96
Tobacco products	67.21	63.97
Textiles	8.45	14.40
Wearing apparel	5.03	14.03
Leather and related products	12.89	19.52
Wood and products of wood and cork, except furniture; manufacture of articles of straw and plaiting materials	9.17	24.47
Paper and paper products	20.84	27.97
Printing and reproduction of recorded media + Publishing activities	6.44	22.75
Coke and refined petroleum products	27.42	42.89
Chemicals and chemical products	16.87	34.69
Pharmaceuticals, medicinal chemical and botanical products	22.68	43.35
Rubber and plastics products	11.17	31.31
Other non-metallic mineral products	33.02	55.85
Basic metals	20.63	44.43
Fabricated metal products, except machinery and equipment	22.03	44.40
Machinery and equipment n.e.c	9.13	34.69
Computer, electronic and optical products	10.32	31.60
Electrical equipment	12.19	37.54
Motor vehicles, trailers and semi-trailers	13.17	44.79
Other transport equipment	10.12	48.23
Furniture + Other manufacturing	21.85	22.56
Total	19.65	34.53

Source: ASI unit level data and authors' computations

Note: The table has been prepared using data for 18 selected major states

Table 4.12 Share of contract workers in total workers, organized manufacturing, by state, 1999–2000 and 2011–12 (%)

<i>State</i>	<i>1999–2000</i>	<i>2011–12</i>
Andhra Pradesh	48.26	49.15
Assam	7.85	21.21
Bihar ^a	37.42	47.98
Delhi	4.62	8.89
Goa	19.49	41.83
Gujarat	25.92	35.06
Haryana	27.96	50.50
Himachal Pradesh	18.28	23.07
Karnataka	12.68	22.07
Kerala	4.53	14.77
Madhya Pradesh ^a	20.73	38.80
Maharashtra	17.39	40.48
Orissa	32.90	48.40
Punjab	15.67	28.41
Rajasthan	18.86	37.15
Tamil Nadu	7.04	19.63
Uttar Pradesh ^a	29.10	42.88
West Bengal	6.99	32.64
All	19.65	34.53

Source: ASI unit level data and authors' computations

^aSee note below Table 4.4

Table 4.13 Downward adjustment made by manufacturing plants in directly employed workers, by state, from 2008–09 to 2012–13

<i>States divided into two groups</i>	<i>Percent of observations in which a more than 25 per cent cut was made in employment of direct employed workers over previous year</i>
A. States with flexible labour markets	
Andhra Pradesh	24
Karnataka	21
Gujarat	14
Tamil Nadu	19
Rajasthan	21
Uttar Pradesh	20
Uttarakhand	18
Average (A)	20
Average (A) excluding Gujarat	21
B. States with inflexible labour markets	
Assam	12

(continued)

Table 4.13 (continued)

<i>States divided into two groups</i>	<i>Percent of observations in which a more than 25 per cent cut was made in employment of direct employed workers over previous year</i>
Bihar	18
Delhi	23
Goa	23
Haryana	23
Himachal Pradesh	18
Kerala	15
Madhya Pradesh	18
Maharashtra	16
Orissa	16
Punjab	16
West Bengal	12
Jharkhand	16
Chhattisgarh	25
Average (B)	18
Average (B) excluding Chhattisgarh	17

Source: Authors computations based on ASI unit level data

Note: The analysis is based on unit-level ASI data for the years from 2008–09 to 2012–13. It is confined to plants for which employment data are available for both current and previous year and among them to those plants which employed more than 100 directly employed workers in the previous year. Among such plants, the proportion which had cut down employment of direct workers by more than 25 per cent is shown in the table

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Precarious Work, Globalization and Informalization of Workforce: Empirical Evidence from India

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I INTRODUCTION

At a global level, globalization and technological changes have led to increased competition among employers and greater levels of outsourcing (Harding and LeGales 1997; ILO 2011). Manufacturing jobs have dwindled, while service industries have continued their growth to become the principal sources of employment (ILO 2011). Similarly, the decline of growth rate of agriculture sector and the rising trends in migration of workers has also exacerbated the risks of employment insecurity among other insecurities. Moreover, neoliberalism has meant the erosion of government regulations and protections at various scales, together with the weakening of key labour market institutions such as trade unions and

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employment protection legislation (Peck and Tickell 2002; Harvey 2005). The supply and the composition of the labour force have also changed considerably, due to three reasons, viz. increased migration from rural to urban areas, decline in the female participation rate along with the expansion of educational attainment and the growing demand for flexi-type employments (Daguerre and Taylor-Gooby 2003). All of these forces have combined to transform how work is organized, gradually chipping away at the so-called standard employment relationship (SER), which is characterized by secure, stable, full-time jobs with attendant benefits like house rent allowances, dearness allowance and social security benefits. Instead, what we have seen is the steady growth of non-standard and more precarious forms of employment (i.e. less stable, part-time, short-term contract and temporary types of employment) (Rodgers and Rodgers 1989; Vosko 2010). There is a well-documented comparative literature tracking this upward (in terms of numbers) trajectory of precarity across several countries and examining the distribution of precarious employment by population subgroups (i.e. gender, age category, social groups, immigrant status) and its related negative health and labour market effects (Chevalier and Mansuy 2009; Fagnani and Letablier 2009; Vosko 2010).

Precarious work has been able to take root in the labour market because of weaknesses, omissions and gaps in both national and international labour laws (ILO 2011). Moreover, lack of effective enforcement of labour law pushes these vulnerable groups into the margins of precarity. Existing scholarship has argued that precarious work is a global tendency caused by global macro-structural changes. Specifically, Kalleberg (2009) has maintained that increased employment precariousness in many industrialized countries has come about as a corporate response to intensified global price competition, the salience of stockholders' short-term interest in corporate governance, the weakening of state intervention in the labour market and the decline in union power. On the other hand, Lee and Kaufman (2012) have pointed out that in many developing countries, precariousness of work creates a crisis not just of job quality but also of a social reproduction of labour. In their analysis, the rise of precarious work is seen as an integral part of the development strategy of the state and international financial institutions rather than the natural corporate response to global market competition (*ibid*).

However, most existing studies of precarious employment have focused their analytical lens on national-level trends, overlooking the heterogeneous trends in precarious employment. In India, precarious work forms include categories within the two forms of major work, self-employment

and wage employment. While self-employment may be a form of liberation from wage employment, it is not often devoid of precarity and subject to self-exploitation prospects and as in India self-employed workers not covered by labour laws. Within the wage employment, we classify workers into directly and indirectly employed workers. Amongst the directly employed workers, precarious workers include casual, temporary, fixed-term contract, (permanent) trainee and other workers who lack several forms of securities. The labour contractors supply contract workers to the user enterprise (called principal employer in India); hence, there obtains a triangular relationship between the user enterprises, the contractor and the contract workers. This system needs to be distinguished from ‘outsourced work’ in which work is performed outside the enterprise to any economic identity including home-based workers (which can be a ‘disguised work’ type), that is, dependent self-employed (Sarkar 2004; Shyam Sundar 2012). Further, in a labour-surplus economy which is yet to see the *Lewesian turning point* (i.e. convergence of real wages in formal and informal sectors), unemployment will be far lower than that in the developed countries as labour force entrants pick up jobs on the offer for survival (Ghosh 2016). In that sense, the precarity exists in a *fundamental* sense in the labour market. In India, because most labour laws do not cover more than 90 per cent of workers’ precarity, it is inherent even in the legal framework (see Sapkal and Shyam Sundar 2017, 338–9).

The labour market in India is significantly segmented in terms of legal coverage, sectors of production, source of workers (rural or urban) and so on. Class, caste (social form of division of labour which is often discriminatory), religion, spatial, union coverage, gender and so on stratify and fragment the labour market (Mundle 2016). Then, varieties of employment types could be seen more as a continuum rather than distinct parts as in a full-employment economy. There are layers within layers, and hence we may often find cases of a person performing multiple jobs often straddling between the formal and informal divides.

The National Commission on Enterprises in the Unorganized Sector (NCEUS) (2007) definition of informality captures the universality of informal employment in its definition of unorganized workers: “Unorganized workers consist of those working in the unorganized sector or households, excluding regular workers with social security benefits, and the workers in the formal sector without any employment and social security benefits provided by the employers.” It also defined the unorganized sector as: “The unorganized sector consists of all unincorporated private enterprises owned by individuals or households engaged in the sale and

production of goods and services operated on a proprietary or partnership basis and with less than ten total workers” (ibid).

There are different aspects of unorganized or precarious work that various conceptions seek to capture (Unni and Naik 2013; ILO 2011; Breman 2011; Chen 2012). We consider six aspects of precarity in this study, viz. type of employment, non-existence of written employment contract, the low probability of finding longer tenure, limited duration of employment contract, non-coverage under social security like provident fund and medical insurance schemes, and absence of access to voice mechanisms (like trade unions and strikes).

Existing scholarship on defining informality focuses on informality as a self-correcting equilibrium in the absence of state regulations, and they do not rely on a single binary indicator to distinguish workers as formal or informal. Therefore, the studies use two parameters to classify workers, viz. employment threshold criterion as defined in Chapter V-B in the Industrial Dispute Act, 1947, and access to social security benefits as mandated in various social security laws in India. However, while workers, in reality, are exposed to a variety of job-related insecurities, the more formal of them enjoy multiple degrees of protection, whereas the least formal ones with bad job quality have none (ILO 2005). Quality of job and informal employment are intertwining and complex subjects; hence, there is a need to rely on ‘multiple job quality indicators’ instead of relying on binary proxies which implicitly assume that all informal jobs are bad jobs and all formal jobs are good jobs. It is interesting to note that even those formal jobs falls into the category of de jure good jobs which are more vulnerable than those in the informal sector, as they are entrapped jobs wherein the opportunity costs that workers have to bear are relatively higher as compared to other informal workers. To address this issue, we propose to capture the incidence of precarious employment using multiple dimensions of work insecurities as reflected in their work qualities. This brings to the forefront an attempt to theorize the growing incidence of precarious employment in India.

We first propose a new conceptual framework to distinguish workers into two sectors—formal and informal—based on various dimensions of work-related insecurities. Then, using data from the various rounds of Employment and Unemployment Surveys of National Sample Survey Organization (NSSO), we estimate the nature and extent of precarious employment in India. And finally, we propose to measure the quality of jobs in terms of *high-intensity precarious jobs* and *low-intensity precarious*

jobs in line with classification of jobs into Good Jobs and Bad Jobs as proposed by Anker (2002) and Standing (2002). Even though it appears that Good Jobs as proposed by both authors are best standard jobs, entailing the decent working condition, they are becoming precarious and informal since the last decade. Abraham (2017) notes that employing workers in formal enterprises without the benefit of employment-related social security is a recent form of informalization of the labour market. In India, the share of such workers has increased considerably in recent years from 14 per cent in 2004–05 to 21 per cent in 2011–12. Therefore, instead of focusing on contents of good jobs which we know enjoy high degree of social security and tenure contract, we delve into estimating the higher and lower intensity of precarious work in Indian economy.

2 REVIEW OF PREVIOUS STUDIES

The ‘alternative’, ‘atypical’, ‘informal’ and precarious workforce has grown in developed and developing countries alike (ILO 2005; Charmes 2011; Katz and Krueger 2016). The manifestations of and motivations for this informality among the workforce have differed. On the one hand, labour market segmentation theories argue that the informal economy is intrinsically linked to the formal and hence grows in tandem (‘structuralists’) through subcontracting and outsourcing arrangements (Ghose and Chandrasekhar 2015; Unni and Naik 2013). On the other hand, it is argued that participation in the informal economy may be voluntary because the benefits of informal employment outweigh those of the formal employment (‘voluntarists’) (Amuedo-Dorantes 2004; Günther and Launov 2012; Maloney 2003). Existing empirical studies have very well documented the trends and heterogeneity in precarious work in many different countries—for instance, Lambert and Herod (2016) for the United States; European Commission (2004) for 18 member countries of EU and Unni and Rani (2008) for India.

Using micro-level factors such as individual-level covariates, Van der Velden and Wolbers (2003) and Polavieja (2005) have argued that the risk of falling into temporary precarious works depends on individual as well as job-related characteristics. Having low education level or being a female or being a member of socially marginalized groups increases the probability of having a precarious employment. However, the nature of industry as well as the firm size are also important determinants in these respects. Despite strong labour regulation, young workers are more likely to get

precarious employment than older persons (Baranowska and Gebel 2010). Research studies on precarious employment in the context of developing countries are very few (e.g. see Maiti 2012; Ghosh 2009; Maloney 2004). Unlike country-level studies, Gindling and Newhouse (2012) and Chen and Doane (2008) provide meta-analysis of 13 and 21 empirical studies on the growth in precarious types of employment in low-income countries and South Asia, respectively. These authors have considered both micro- and macro-economic factors in explaining the exponential growth in size of precarious employment. Both studies contend that the expected outcome is primarily driven by changing nature of standard employment relationships, the growth in global value chains and embedded labour process that falls outside the legal purview. Therefore, these results provide mixed results largely attributed to macro-economic and structural factors.

In the context of India, there exists substantial amount of literature on the formal and the informal sectors (e.g. NCEUS 2009; Chen 2007; Unni and Rani 2008); however, there are not many studies that have actually examined the growing incidence of precarious employment. Various official sources and academic literature see the labour market as segmented and that is officially defined as a binary, viz. formal-informal sector and organized-unorganized sector. Classifications based on the narrowest of definition of operational and organizational criteria often overlook other equally important precarious dimensions of economic activity and employment relations. Recently, an attempt has been made by Sahoo and Neog (2016) to study the heterogeneity within the informal sector and informal employment, indicating existence of considerable amount of precarious working conditions among the workers in both. Using the framework of Sahoo and Neog and Sahoo (2016), we calculated the odd ratios of being able to get into regular contract using the job tenure security as a key variable (Sapkal and Shyam Sundar 2017). Our estimated results extended the analysis of Sahoo and Neog (2016) to unfold the determinants of precarious employment in the organized manufacturing sector of India. Using the formal binary approach of formal and informal sector, Maiti (2012) examined the industry-level macro-trends in influencing the growth of precarious employment in India.

In this study, we use three rounds of unit-level data on Employment and Unemployment Survey (EUS) collected by NSSO for the period 2004–05 (55th Round), 2009–10 (66th Round) and 2011–12 (68th Round). We have made all our computations based on the unit-level data concerning these rounds. The present study uses the newly incorporated

questions on the employment characteristics to study—(a) type of employment, (b) non-existence of written employment contract, (c) the low probability of finding longer tenure, (d) limited duration of employment contract, (e) non-coverage under social security like provident fund and medical insurance coverage and (f) absence of access to voice mechanisms, that is, trade union membership.

3 DATA AND EMPIRICAL ANALYSIS

3.1 *Data*

Three rounds of EUS data that we mentioned earlier contain information on the enterprise size and the availability of social security benefits to the workers. We utilize this information to distinguish workers into organized and unorganized sector and formal and informal jobs. Further, the EUS data have a number of variables on multiple dimensions depicting the employment quality of the workers. We utilize them to examine the employment quality of the workers and distinguish workers based on the quality of their jobs.

We carry out our analyses excluding the workers engaged in the agricultural sector as information on the availability of social security benefits as well as enterprise type, or number of workers in the enterprise is not available for such workers. Moreover, the meaning and distinction of different types of informality in agriculture and non-agriculture may differ. Especially in the context of cultivators, the meaning of self-employed, own-account worker or employer and the unpaid family worker is different than the non-cultivator workers (Gindling and Newhouse 2012). Finally, the shift from agriculture to non-agriculture constitutes the process of modernization, and therefore there is a need to distinguish informality in agriculture and non-agriculture (Charmes 2009). Hence, our analysis covers non-farm workforce in the economy.

3.2 *Developing a New Conceptual Framework*

Earlier approaches refer the informal sector and informal employment for measuring informality. Though these two terms are used interchangeably, they imply different aspect of labour markets. According to 15th International Conference on Labour Statistics (ICLS), informal economy consists of small-scale unincorporated arrangements without formal

protection. Recently, ILO as part of its Report ‘Decent Work and the Informal Economy’ suggested a conceptual framework for defining and measuring the informal economy which was finally ratified by the 17th ICLS (ILO 2013). The 17th ICLS defined informal employment as the total number of informal jobs, whether carried out in formal sector enterprises, informal sector enterprises or households, during a given reference period. First, we specifically use the organized and unorganized sector binary by using the employment threshold criterion of firm size to refer to formal and informal activities in the labour market, as defined by NCEUS (2007). After this, in the second stage, we estimate the content of formality and informality in given jobs using variables such as access to social securities, leaves and availability of trade union membership/or presence of trade union in the firm. Based on this, we propose two types of measures that will capture the ‘high-intensity’ and ‘low-intensity’ precarious employment in India as our third criterion.

We classify the jobs into *high-intensive* and *low-intensive* precarious jobs in the Indian labour market. According to 68th round of EUS NSSO, 6 per cent of workforce in rural areas and 28 per cent of workforce in urban areas are engaged in regular/salaried wage employment in 2011–12. Our approach is justified in the light of following statistics and arguments. In a recent study by Centre for Sustainable Employment (2018) on the State of Working in India argues that the actual size of regular/salary wage employment has reduced to 22 per cent in 2011–12 from 38 per cent in 2004–05 across India. Indicators based on multiple dimensions reduce the problem of omission and unobserved heterogeneity of quality parameters. Multiple criteria of work quality also minimize the problem of self-selection and hence are not arbitrary. Classification of workers under two-step cluster analysis is based on sound statistical foundations and not arbitrarily determined. Kalleberg (2012) argues that instead of putting the quality of jobs into binary category, it is useful to estimate the work intensity of precarious jobs. Higher work intensity shows the quality of jobs is seriously poor and is negatively correlated with labour welfare. Workers engaged into this type of jobs are involuntarily accepting the hazardous working conditions and are entrapped into precarity without any fall-back options. Similarly, low work-intensive precarious jobs indicate that the quality of jobs is relatively better but still it is not an ‘ideal decent job’, equivalent to formal employment. Workers engaged into this category enjoy relatively better stability; however, they lack access to all forms of work-related securities.

Table 5.1 Aspects of work qualities

<i>Aspects of work qualities</i>	<i>Description</i>	<i>Indicators</i>
Income security	Having sufficient earnings from work	Monthly per capita consumption expenditure (MPCE)
Employment tenure security	Employment stability and continuity	Types of employment contract
Labour market security	Adequate employment and work opportunities	Nature of employment
Social security	Access to paid leave and social security that may internalize the work-related risk	Eligibility for paid leave; availability of social security benefits
Skills reproduction security	Widespread opportunities to gain and retain skills	Skill embodiment of the job
Representation security	Access to collective bargaining rights and representation	Membership or presence of a Union or Association

Source: Neog and Sahoo (2016) and Standing (2002)

Table 5.1 indicates six aspects of quality of work as captured in the EUS survey. First indicator on income security uses monthly per capita expenditure as proxy for monthly earning of workers. This variable is now treated as a separate building block, both because of its evident importance for living standards and because of improved questions allowing a more satisfactory measurement. The fairness of wages could not, however, be adequately captured with these data, and it forms one of the potential challenges for future development of database. Second indicator on employment tenure security allows us to capture employment stability and continuity in particular type of employment. This variable also ascertains some degree to existence of employment-employee relationship in the workplace. Regular wage/salaried employment is considered to be superior and protective forms of employment than others. Our third indicator on labour market security allows us to capture heterogeneity not only in regular employment but also in casual employment, which many firms use. Workers’ life is subject to various forms of work-related risks at the workplace; hence, some degree of social protection is required to ensure decent employment conditions. Over the last one decade, the state has made successive attempts to provide basic social security for workers even in the private sector. To unfold this, the fourth variable on social security captures

the access to social security by workers. It is well established that wage premium largely accrues to skill embodiment and reproduction capacity in the form of jobs. Our fifth variable captures this phenomenon by finding out whether workers are able to augment their skills sets while working in the existing jobs. This variable is crucial as it enables us to examine whether skill-biased technical change would be able to retain their existing workers through providing training upgradation. And finally, our sixth variable indicates whether workers are able to collectively raise their voices through trade unions in a given firm so that they can participate in the decision-making processes in it and are able to take legal recourse in the wake of unjust retrenchment and market adversity.

3.3 High-Intensity and Low-Intensity Precariousness: A Class Cluster Analysis

Cluster analysis is applied to distinguish workers based on their quality of work. Cluster analysis creates distinct clusters of observations using various distance measures of the attributes of the observations so that intra-cluster observations are as similar as possible whereas inter-cluster observations are as dissimilar as possible (Johnson and Wichern 2002). This innovative approach shows that it is possible to condense multiple factors characterizing the employment situation into two types of precarious intensity: (a) **high-intensity precarious job** and (b) **low-intensity precarious job**. Following Neog and Sahoo (2016) and Anderson et al. (1987), we use two-step-cluster analysis method on these variables to arrive at some distinct clusters of workers (Johnson and Wichern 2002; SPSS 2001). The two-step method uses log-likelihood as the distance measure that can handle both continuous and categorical data. The number of clusters is determined statistically based on the ‘Bayesian Information Criteria’. ‘Goodness’ of a cluster solution is gauged by silhouette coefficient, which is a measure of both cohesion and separation (Neog and Sahoo 2016). The silhouette coefficient lies between -1 and $+1$ with a value of $+1$ being best and a value of -1 being worst (Johnson and Wichern 2002; SPSS 2001).

Our indicators to classify workers engaged into high-intensity and low-intensity precarious work is based on six dimensions of work qualities as discussed in Table 5.1. The chapter also looks at the job quality of the precarious workers within the six dimensions of work-based security.

However, to do so, we first normalize the indicators as discussed in Table 5.1 on a scale of 0 to 1, using the following method.

$$\text{Normalized Score} = (\text{Actual Score} - \text{Minimum Score}) / (\text{Maximum Score} - \text{Minimum Score})$$

We then calculate the average of the normalized scores of all indicators under each dimension separately. We use the calculated scores of each of these dimensions, and then finally we take mean of all six dimensions for constructing index on *high-intensity* and *low-intensity* precarious jobs. In our exercise, if the estimated values of each individual parameter is more than median value then it is classified as *low-intensity precarious jobs* and if it is less than median value, then it is considered as *high-intensity precarious jobs*.

4 EMPIRICAL RESULTS AND DISCUSSION

4.1 Incidence of Precarious Employment: A Brief Overview

In this section, we analyse the trends and heterogeneity in precarious employment in India. One of the dimensions of growth in the informal employment is that it is temporary in nature. The share of temporary employment has increased by 8.83 per cent, and the share of permanent employment decreased by 7.20 per cent during 2004–05 and 2011–12 (Table 5.2).

Data in Table 5.3 shows that approximately 80 per cent of precarious workers do not have written contract and only 16 per cent of temporary precarious workers have contract tenure of less than one year. Approximately 3 per cent of temporary precarious workers enjoy the contract tenure for more than 3 years. In Table 5.4, it is interesting to observe that the precarious workers holding employment contract less than a year tenure have

Table 5.2 Nature of precarious employment (%)

<i>Type of employment</i>	<i>2004–05</i> <i>(55th Round EUS)</i>	<i>2009–10</i> <i>(66th Round EUS)</i>	<i>2011–12</i> <i>(68th Round EUS)</i>
Permanent	78.12	74.17	70.97
Temporary	21.88	25.83	29.03
Total	100.00	100.00	100.00

Source: Authors' calculations based on NSSO data

Table 5.3 Tenure of job contracts (%)

<i>Type of employment contract</i>	2004–05 (55th Round EUS)		2009–10 (66th Round EUS)		2011–12 (68th Round EUS)	
No written contracts	71.85		76.13		79.55	
<1 year	2.23		3.09		16.59	
>1 year and <3 years	3.19		1.17		0.51	
>3 years	22.73		19.62		3.35	
Total	100.00		100.00		100.00	

Source: Author's calculations based on NSSO unit level data for 55th, 66th and 68th Rounds

Table 5.4 Trade union membership of precarious workers (%)

<i>Member of trade union</i>	2004–05 (55th Round EUS)		2009–10 (66th Round EUS)		2011–12 (68th Round EUS)	
	<i>Permanent</i>	<i>Temporary</i>	<i>Permanent</i>	<i>Temporary</i>	<i>Permanent</i>	<i>Temporary</i>
	Yes	76.23	58.19	73.66	54.21	69.26
No	23.77	41.81	26.33	45.79	30.74	61.79
Total	100.00	100.00	100.00	100.00	100.00	100.00

increased eight times, implying that many of the precarious workers who earlier enjoyed longer duration of contract have shrunk drastically during 2004–05 and 2011–12. This trend also explains the explicit employment strategy adopted by employers who prefer to employ workers for a short duration so as to avoid the burden of compliance cost with labour regulations (Sapkal and Shyam Sundar 2017; Soundararajan 2013). Low tenure of job contract is also coupled with a weak bargaining power among these workers.

In Table 5.4, we can see that more than 60 per cent of temporary precarious workers do not have trade union membership for the period 2011–12.

The gender composition of precarious employment indicates that male worker is most likely to receive the permanent employment than female workers. The proportion of women workers enjoying a permanent employment status has declined by approximately 3 percentage points, whereas this decline has increased the participation of female workers in the temporary workers (Table 5.5). Due to the convoluted gender-biased social systems, women workers have always been restricted to participate in the labour markets, and as a result female workers, especially rural females,

Table 5.5 Gender composition of precarious workers (%)

<i>Category</i>	<i>2004–05 (55th Round EUS)</i>		<i>2009–10 (66th Round EUS)</i>		<i>2011–12 (68th Round EUS)</i>	
	<i>Male</i>	<i>Female</i>	<i>Male</i>	<i>Female</i>	<i>Male</i>	<i>Female</i>
Permanent	79.19	33.25	74.91	39.71	76.10	36.18
Temporary	20.81	66.75	25.08	60.29	23.90	63.82
Total	100.00	100.00	100.00	100.00	100.00	100.00

Table 5.6 Economic activity of precarious workers (%)

<i>Economic Activity</i>	<i>2009–10 (66th Round EUS)</i>			<i>2011–12 (68th Round EUS)</i>		
	<i>Permanent</i>	<i>Temporary</i>	<i>Total</i>	<i>Permanent</i>	<i>Temporary</i>	<i>Total</i>
Self-employed own account workers	47.51	19.54	39.54	42.73	17.22	36.39
Self-employed employer	3.41	3.05	1.10	2.23	0.40	1.77
Unpaid family workers	19.10	6.34	17.57	17.67	8.01	15.27
Wage/salary workers	16.94	34.65	20.43	23.02	20.24	22.33
Casual wage labour in public works	1.58	4.53	3.15	0.52	2.85	1.10
Casual wage labour in other works	11.46	31.89	18.21	13.82	51.29	23.12
Total	100.00	100.00	100.00	100.00	100.00	100.00

have lesser incentives to have formal education and gain skills. This has not surprisingly affected the social and economic mobility of women workers across India.

Economic activity among precarious workers elucidate that the majority of precarious workers are predominant in regular wage workers, casual wage workers in other private works and self-employed own-account workers (Table 5.6) for the period between 2004–05 and 2011–12.

4.2 *Quality of Work-Related Insecurities: An Overview*

In the previous section, we observed that the incidence of precarious employment is increasing rapidly in the last decade. Majority of the workforce engaged into precarious temporary employment with no written

contract and do not have trade union membership. Absence of any form of contractual relationship between both employer and employee has pushed the workers at the margin of vulnerability as they do not have legal recourse in Indian labour laws. According to 68th round of NSSO (2011–12), labour force participation rates of women aged 25–54 years (including primary and subsidiary status) have stagnated around 26–28 percentage points in urban areas, and fallen substantially from 57 to 44 percentage points in rural areas, between 1987 and 2011, respectively. It is interesting to note that majority of women workers are highly concentrated into precarious temporary employment as noted in Table 5.5.

As discussed in Sect. 3, we provide newly constructed indices of dimensions of work-related qualities of precarious employment. Table 5.7 indicates that precarious temporary workers engaged into informal employment and unorganized sector employment are worse off than those workers engaged into formal employment and organized sector employment. Estimated scores at an aggregate level are almost lesser than 0.29 for informal employment and unorganized sector employment, whereas the scores are much higher for workers engaged into formal employment, followed by organized sector employment. Intuitively, the results derived at an aggregate level shows that approximately 30 per cent of workforce engaged in informal employment and unorganized sector are able to access either one or more than one form of securities discussed later. On the other hand, more than 60 per cent of workers engaged in formal employment and organized sector employment are having access to at least one for work-related securities. At the disaggregated level, we can see that workers engaged in formal employment enjoy higher degrees of employment, tenure, social and representation security as compared to income and skill production securities. This shows that even if he/she is employed in the formal employment wherein nominal wages are higher compared to others, they provide no incentives for skill reproduction referred to as a static wage premium. In the organized sector employment, which is a second best job avenue, workers enjoy higher level of employment tenure and social security but fare very poorly in terms of income, labour market, skill reproduction and representation securities. In the informal and unorganized sector employment, workers enjoy higher degree of employment securities as relative to other forms of securities. This is due to the fact that smaller informal units have lower attrition rates as compared to larger formal units, and workers do not have any fall-back options.

Table 5.7 Aspects of work qualities

<i>Aspects of work qualities</i>	<i>Formal employment</i>		<i>Informal employment</i>		<i>Organized sector employment</i>		<i>Unorganized sector employment</i>	
	2004-05	2011-12	2004-05	2011-12	2004-05	2011-12	2004-05	2011-12
Income security	0.53	0.61	0.10	0.13	0.23	0.29	0.03	0.01
Employment tenure security	0.89	0.91	0.88	0.78	0.78	0.81	0.74	0.71
Labour market security	0.72	0.63	0.12	0.09	0.37	0.26	0.06	0.02
Social security	0.98	0.95	0.43	0.35	0.73	0.69	0.55	0.49
Skills reproduction security	0.66	0.51	0.44	0.23	0.41	0.36	0.31	0.26
Representation security	0.92	0.88	0.13	0.06	0.39	0.33	0.19	0.12
Total	0.84	0.76	0.40	0.29	0.51	0.43	0.29	0.26

Source: Authors' calculations based on NSSO data. Given in the references the EUS data source for all the three rounds. For this and other tables unless otherwise mentioned this applies

Note: Table indicates the normalized value of scores on varied work qualities. Values are calculated using sampling means

Overall, precarious workers engaged in informal and unorganized sectors are facing perilous working conditions that is internalizing the work-related risk in their employment relationships. Moreover, those engaged in the organized sector employment are relatively worse off than workers engaged in formal employment. Across all categories, income and skill reproduction securities have emerged as a serious policy concern for ensuring decent working conditions in the Indian labour market. Except the formal employment, remaining categories are showing a drastic decline in the degree of work-related securities that every worker ought to have.

4.3 *Incidence of High- and Low-Intensity Precarious Employment*

As discussed earlier, majority of workers engaged in informal employment, unorganized and organized sector, fares poor on work-related securities and entrapped into precarious working conduction. The Report on the State of Working in India (Centre for Sustainable Employment 2018) notes that 82 per cent of male and 92 per cent of female workers earn less than ₹10,000 a month and have no access to basic work-related securities. Our estimated results are in conformity with their study.

Table 5.8 shows that approximately 40–60 per cent of workers are engaged in high-intensity and low-intensity precarious employment, respectively. Among the high-intensity category, workers are still not

Table 5.8 Incidence of high- and low-intensity precarious employment

<i>Aspects of work qualities</i>	<i>Cluster 1</i>			<i>Cluster 2</i>		
	<i>High-intensity precarious jobs</i>			<i>Low-intensity precarious jobs</i>		
	<i>2004–05</i>	<i>2009–10</i>	<i>2011–12</i>	<i>2004–05</i>	<i>2009–10</i>	<i>2011–12</i>
Income security	0.04	0.01	0.01	0.45	0.55	0.59
Employment tenure security	0.63	0.55	0.51	0.88	0.94	0.96
Labour market security	0.03	0.01	0.01	0.62	0.68	0.57
Social security	0.61	0.49	0.43	0.93	0.95	0.89
Skills reproduction security	0.31	0.36	0.32	0.46	0.51	0.58
Representation security	0.08	0.10	0.05	0.61	0.53	0.38
Total	0.29	0.33	0.37	0.71	0.66	0.62

Source: Authors' calculations based on NSSO data. Given in the references the EUS data source for all the three rounds. For this and other tables unless otherwise mentioned this applies

Note: Authors' own computations. See the text for more information

receiving any basic income, employment, representation and social security. On the other hand, those engaged in the low-intensity precarious employment are relatively better off in skill, employment and social security parameters than representation, income and labour market security. Table 5.8 also brings out the heterogeneity within precarious employment in terms of their access to varied social security measures. Indian economy has struggled to convert high economic growth into jobs as observed by the Report on State of Working in India (Centre for Sustainable Environment 2018)—currently, a 10 per cent increase in the Gross Domestic Product (GDP) results in less than 1 per cent increase in employment. It is important to note that on the one hand, the pace of employment growth is abysmally low relative to growth in GDP, and on the other hand the size of employment opportunity sans the quality of decent working conditions is also low. Overall, the condition of labour market is *sub-optimal*, making the working poor poorer.

5 CONCLUSION AND WAY FORWARD

The growing incidence of precarious employment across all sectors is a serious challenge for a developing country like India. Earlier studies on India have examined several aspects of informal sector and used the dichotomous category of employment segmentation (formal and informal sector) to present the broader overview of precarious working condition. However, some of the key features of precarious employment have been missed out due to paucity of data. In this chapter, we have sought to deal with this important aspect and provide a reliable estimate on the intensity of work in precarious employment in India using Cluster Analysis to estimate high- and low-intensity precarious work. Firstly, we provide a brief overview of nature and extent of precarious employment in India. Secondly, we assess precarity based on six parameters of work-related securities and the incidence of precarity between four different types of employment. Our result shows that at an aggregate level, approximately 30 per cent of workforces engaged in informal employment and unorganized sector are able to access either one or more than one form of securities discussed later. On the other hand, more than 60 per cent of workers engaged into formal employment and organized sector employment are having access to at least one for work-related securities. This indicates that work-related security is a serious concern and exposes workers to various forms of market risks. Even the jobs which appear to be lucrative lack full cover-

age of securities. Finally, workers engaged into high-intensive precarious employment are entrapped into precarity without any fall-back options and struggling to live a life. On the other hand, workers holding intensive precarious jobs enjoy relatively better mobility and minimum standards of employment stability, but they lack other important work-related securities.

The present policy tendency on the part of the government is to provide as much flexibility to the employers as possible to attract capital and to promote employment generation. But pursuit of aggressive flexibility in labour market, as discussed in this chapter, has only resulted in poor quality jobs and hence will not enhance labour welfare. Precarity is a result of lack of consideration of work quality by policymakers and employers, absence of state intervention and denial of labour rights to workers.

The arguments and the evidence in this chapter clearly show that falling work quality standards are compelling workers to live less dignified lives. And hence, there is a need for active state intervention to promote decent work for both social stability and better economic performance. The results emphasize the need for government efforts to improve working conditions among workers engaged in precarious jobs. In this direction, policy efforts need to be targeted towards high-intensive precarious work where majority of workers is found to be concentrated.

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PART II

Profiles of Informality and Precarity:
Industry and Occupational Studies



Emerging Vulnerabilities in India's Plantation Economy

M. Vijayabaskar and P. K. Viswanathan

I INTRODUCTION

Two episodes involving the plantation workers most evocatively convey the multiple axes of vulnerability amongst plantation labour in India. The first involved a series of starvation deaths since the early 2000s among plantation workers in the globally famed tea plantations of Darjeeling and the Dooars in Bengal. Between 2000 and 2015, it is reported that more than

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1400 people have died due to starvation in the region (Chaudhuri 2015). Conditions in the tea estates of Assam too are not too different with reports of both starvation deaths and malnutrition (*ibid.*). The starvation deaths drew national and global attention to the tragic fact that despite a global reputation for high quality of Darjeeling tea, workers involved in the production of such tea have not been able to secure even their bare lives despite labouring for generations. In other words, economic upgrading that is seen in policy circuits to be crucial to better price realization, which can translate into better returns for labour, need not actually happen. In fact, despite producing lower quality of tea, working conditions of workers in South Indian plantations are relatively better, due mainly to the tripartite wage settlement policies followed in South India. Relatively better conditions do not, however, imply decent livelihoods. Second, in September 2015, thousands of women workers from the tea estates of Munnar, therefore, came out protesting spontaneously against both the management and unions, demanding better wages and bonus payments, among others.

The women workers' strike happened in a state that is known for its pro-labour and pro-poor intervention and one that is arguably the best in the country in ensuring workers' welfare (Deshpande 2000; Heller 1999). Known for high levels of unionization and higher nominal wage rates for plantation workers than in other states, some of the demands placed by the workers during and after the strike were particularly telling. They demanded higher wages, pointing out that their wage rates were lower than that of any other formal occupations in the state or for that matter even casual wage rates in sectors like construction and agriculture. They also demanded Below Poverty Line (BPL) ration cards to access rations from the public distribution system (PDS). Being employed in the formal sector, this demand to be classified Below Poverty Line goes to show how poorly the Plantation Labour Act (PLA), 1951, that governs their working and living conditions, has been implemented even in a state like Kerala. They further insisted that the state provide housing for families belonging to this sector, as workers lost their housing entitlement provided by the estate once they stopped working. Despite having worked for three generations, workers were not in a position to save enough to invest in housing.¹ Overall improvements in labour institutions and welfare in a specific region therefore did not necessarily trickle down to those

¹ It is all the more important to note that majority of the workers do not even possess lands, so that they could think of constructing a house post retirement from the plantations.

labouring in the plantations. Plantations, therefore, continued to remain as ghettos of poverty and vulnerability.

The state and capital in this industry responded to such distressing episodes of workers by pointing out that there has been a 'crisis' of profitability among producers of most plantation crops in the country and hence cannot afford to address such concerns of labour welfare. The argument, therefore, is that plantations are already making losses and closing down in many places. Any moves in favour of labour may only further exacerbate the crisis and therefore add to the precarity of those dependent on the sector for their livelihoods. In this chapter, we elaborate the factors contributing to this 'crisis' in the plantation economy and what we see as problematic in their response to this 'crisis' and hence in ensuring 'decent' livelihoods for workers. Following Neilson and Pritchard (2009), we adopt a value chain or a commodity chain perspective within an 'institutional framework', to understand the relational dynamics of production and distribution of value in the sector.

The commodity chain perspective, initially advanced by the world systems theorists (Hopkins and Wallerstein 1986), and enriched by subsequent empirical analyses of Gereffi (1995; Gereffi and Korzeniewicz 1990; Gereffi et al. 2005) and others (Bonacich et al. 1994; Gibbon 2000; Ramamurthy 2000; Rammohan and Sundaresan 2003; Cattaneo et al. 2010; and Bair 2009 to name a few), facilitates understanding accumulation processes in sectors where production and distribution functions are dispersed across the world.² A commodity chain, as defined by Hopkins and Wallerstein (1986, 159), refers to "a network of labour and production processes whose end result is a finished commodity". Neilson and Pritchard (2009) argue that while the value chain framework as developed by Gereffi does recognize the importance of locale-specific institutions in shaping outcomes within a value chain, studies using this framework do not engage with the question of how territorially embedded struggles and resulting institutional arrangements interact with value chain dynamics. Importantly, they argue for an institutionally embedded global value chain (GVC) framework that does not treat institutions as a set of external constraints or enablers of action within a value chain but to look at how the

²In fact, this perspective has been mooted to advance the New International Division of Labour (NIDL's) explanatory power by moving away from nation states as units of analysis and allowing space for peripheral regions to serve multiple roles in the global division of labour.

processes of institution making are tied to actions undertaken by actors who are both embedded territorially and within value chains simultaneously.

In addition, we argue for the importance of incorporating the idea of ‘sustainability’ in production networks (Klooster and Mercado-Celis 2015). By ‘sustainability’, we refer to the distribution of adequate value downstream to ensure ‘decent’ livelihoods for labour and importantly to sustain the agro-ecosystems that are critical to not just production of the commodity but also to sustain human and non-human lives outside the value chains of specific crops. Sustainability is therefore not confined to reproduction of resources required to sustain economic activity within a specific value chain but has a territorial dimension that transcends sector-specific reproduction. While highlighting some of the positive aspects of policy interventions, the chapter develops a critique of the premises underlying some of the interventions based on such an understanding of sustainability and upgrading. We point out the limitations of a commodity-centric approach that tends to dominate policy interventions aimed to revive the plantation economy. Alongside the worsened labour conditions, we point out how issues of land grab, and gender, reinvestment and ecological sustainability are also emerging as equally important aspects of the plantation question. Finally, we discuss few possible pathways towards a ‘high road’ that emphasizes the ‘sustainability’ dimension. As a corollary, we stress the importance of public research and development (R&D) not merely in terms of quantum of investments but, importantly, on the nature of priority setting with regard to issues that require research attention. We also highlight challenges in governance, such as poor implementation of the PLA, exit or diversification of capital without ensuring decent livelihoods for labour in large plantations and concentration of marketing power, that allow little room for value redistribution. The chapter focuses on three plantation crops—tea, coffee and rubber—given their prominence in the plantation crop basket, particularly in terms of the extent of dependent livelihoods.

2 DRIVERS OF CRISES IN PLANTATION ECONOMY

The concern that India’s plantation sector, tea, in particular, is in a profitability crisis, has been around for a while now. The decline in profits is tied to the decline in competitiveness of plantation sector (or estates or firms) and is attributed to a few factors. In the domain of production, quality and quantity of output suffer due to the ageing of the bushes with timely

replanting not being undertaken in most estates. This lack of reinvestments in turn, is justified in terms of decline in profits due to lower prices in both domestic and international markets and higher cost of cultivation. This circular logic in the domain of production is reinforced by global trends in supply and demand. Since there has been an increase in demand, global output has grown even faster. Trade reforms are also argued to have allowed for cheaper imports, thereby keeping domestic wholesale prices low (Selvaraj and Gopalakrishnan 2016; Viswanathan and Shah 2016). Retail prices for tea and coffee have, however, not fallen and, in fact, the gap between wholesale, that is, auction prices and retail prices for tea in the Indian domestic market have been steadily increasing since 1999–2000 (Sarkar 2013). In fact, unlike coffee or rubber, which experience cyclical-ity of prices and greater volatility, price of tea has been witnessing a secular decline/stagnation in its wholesale prices, while retail prices have stabilized. This implies that the prices that tea producers receive tend to be lower vis-à-vis their cost of production even as a trading markup premium persists (Sarkar 2013). As Mohan (2018) points out, though final consumer prices for a teabag as measured through the UK Retail Price Index grew by 104 per cent during 1986–2014, the prices received by exporters grew by only 29 per cent during the same period and in fact declined by 15 per cent if we calculate for the period 1970–2014. Similarly, Arabica growers received around 20 per cent and Robusta (majority of which comprises India coffee) only around 6 per cent of the final US retail price of coffee (Neilson and Pritchard 2009). Importantly, the share of value accruing to producers in the final price realization has come down over the years. In case of coffee, apart from similar issues in market concentration, access to labour at competitive prices is seen as a primary problem for small producers. Their inability to pay competitive wage rates to labour is once again attributed to the low share of value accruing to producers. Plantation production has historically been tied to distant markets and though at present the share of exports has fallen particularly for tea³ (Deepika), global prices continue to influence price realization in the domestic market, particularly in the new trade regime that allows for low-duty or duty-free imports. Rubber too is a case in point here. This decline in profitability has generated a few adverse responses from capital.

³ As per the estimates of the International Tea Committee (ITC) (2006), India's share in global tea exports had declined over time from 37.18 per cent during 1961 to 29.46 per cent (1981), further down to 16.82 per cent (2001) and 12.2 per cent during 2016 (Tea Board 2016).

3 LARGE PLANTERS' RESPONSE

3.1 *Abandoning and Diversifying*

Several estates have been abandoned with owners of some estates moving into other sectors resulting in stoppage of investment or the non-maintenance of their estates (Neilson and Pritchard 2009). Starvation death in Bengal is an outcome of such abandoning. Abandoning has also happened in the states of Tamil Nadu and Kerala (Selvaraj and Gopalakrishnan 2016). Some large players such as the Tatas and Unilever have sold off many estates they owned and confined themselves more to buying from auctions and retailing, where value accretion is highest. In addition, there are instances of owners selling off estates to those with no prior experience in plantations. A classic example is the purchase of nine estates in Kerala in the late 1970s by the Ram Bahadur Thakur group that had a mining background. After taking advantage of returns from the tea estates when prices were better, with little reinvestments, these estates were all closed by 2003, leading to 18,000 workers losing their jobs. Another case is the G.P. Goenka groups' mismanagement of the Duncan Industries Ltd in Bengal that saw them transferring losses from another sector onto the tea division, leading to underinvestments in the estates (Majumdar 2016). The case of rubber appears to be no different, as rubber producers, albeit small growers, have been receiving un-remunerative prices in recent years, making many of them abandon their rubber plantations or cutting rubber trees for growing other crops or even converting it permanently to other uses such as real estate. Apart from abandoning, we therefore see two strategies adopted by the bigger producers. One is to consolidate their position in the more remunerative section of the plantation value chain such as in wholesale trade and, importantly, in retailing through branding. Another set of players have diversified into unrelated segments which are seen as more profitable compared to the plantation sectors.

3.2 *Lax Implementation of PLA*

The fact that labouring in plantations pose a set of challenges that cannot be resolved through generic labour legislations pushed the Government of India to pass the PLA in 1951 in response to demands from several labour unions. The PLA requires employers to provide healthcare through pro-

viding medical facilities, drinking water and sanitation facilities for workers; provide crèche and educational facilities for the children of workers (once the plantations are above 10 ha in size); housing; regulation of work hours by fixing the maximum number of hours that can be worked in a week; and compulsory leave with pay as well as maternity benefits (John and Mansingh 2016). Given that most large estates were growing tea, the PLA has become particularly contentious in the tea plantation sector. While the passing of the PLA was enabled by labour mobilization, its subsequent implementation too was made possible through labour organizations. Most political parties maintained a trade union wing in the plantation sector, and often, any gaps in implementation were addressed through such collective action. As a corollary, implementation was lacking in regions marked by lower political mobilization.

Demands to increase wages or for better implementation of the PLA, particularly in tea plantations, are increasingly met with a standard argument on the part of the planters, that declining price realization do not allow them for better compliance with the PLA. In fact, complying with the PLA is often claimed by the planters to add to the cost of production and hence reduce the sector's competitiveness in the market. Over time, estates have managed to undermine the provisions of the PLA by drawing upon the 'crisis' discourse to justify. Many plantations have begun to rely on casual and contract workers as the PLA does not extend to them. Despite an amendment to the PLA that allows for contract workers employed for more than 60 days to claim entitlements under the PLA (John and Mansingh 2016), in practice, this is being ignored. In South Indian tea plantations, workers continue to be employed as temporary workers even after working for 6–7 years. The scenario is much more precarious in Assam tea plantations, where, workers continue to remain in temporary rolls even after more than 15 years of working in the plantations.⁴ On an average, at present, about one-third to 40 per cent of the workers are non-permanent workers (Thapa 2012). In addition, as Viswanathan and Shah (2016) point out, planters began to adopt various cost-cutting measures such as reduction in the workforce and intensifica-

⁴The tea plantations in Assam follow a general policy of worker management, by which, temporary workers are made permanent only if there is a vacancy caused by retirement of a permanent worker or death of a permanent worker. This being the case, there are many instances of temporary workers remaining temporary for 10 years, 20 years and even retiring as temporary workers (Viswanathan 2018).

tion of work and cutting down on welfare provisioning. Though shear plucking was introduced in the plantations nearly 20 years ago which enabled workers to double their output, this was not met with compensatory increases in wage rates. In other words, while labour productivity doubled, returns to labour continued to stagnate.

3.3 *Movement to the Small Grower Model*

Other than retrenchment or closure of plantations, as discussed in Sect. 3.1, planters also have adopted a strategy of subdividing and fragmenting the plantations into smaller parcels below 10 ha so that they could avoid providing non-wage benefits and welfare measures as stipulated by the PLA. The welfare measures mandated under the PLA is applicable only to plantations that are more than 10 ha. This tendency has been on the rise in Assam and the Nilgiris in Tamil Nadu where there has been a surge in the number of registered small tea plantations ever since 1993. At the all-India level, the share of area cultivated by small growers, that is, growers with landholdings less than 10 ha, has increased six times from 4.7 per cent in 1981 to 28 per cent in 2012 (Joseph and Viswanathan 2016a). Importantly, 80 per cent of the small growers are subsistence farmers (Rasaily 2016), with women accounting for a substantial share of them. This shift to the small grower model is a combination of both state intervention and strategies adopted by the large plantations in response to the crises in the tea industry. Several regional governments have actively encouraged the small grower model as a means to address the crises in rural livelihoods reliant on other commodities. Movement into production of tea and/or coffee or rubber was seen as a way out to improve rural livelihoods. Simultaneously, large planters have also resorted to leasing out some of their land to small farmers as a means to organize production. This has resulted in a gross exclusion of a major chunk of plantation workers from the protective provision of labour legislation (Viswanathan and Shah 2016) except with regard to minimum wage fixation. While large plantations in India are defined as land holdings over 10 ha, most producers of coffee and rubber own less than 2 ha of land, who constitute almost 92 per cent of the total plantation areas. Given this, bulk of labour in coffee and rubber production too are therefore not bound by PLA.

Apart from casualization of work, the crises among plantations now manifest itself as a crisis among small growers. With the falling prices for tea leaves, small growers have been in distress. As per a survey done by the

Indian Institute of Plantation Management, taking into account the cost of cultivation and the costs of social reproduction of a small grower family, the minimum procurement price ought to be between ₹25 and 27 per kg, whereas at present the price for leaves is less than ₹10 per kg. Following a case filed by the growers' association in the Nilgiris, Tamil Nadu, for the need to fix a minimum procurement price, court ordered the appointment of a district-level monitoring committee comprising the district collector and executive director of Tea Board of India (south) to periodically review the industry situation and fix a fair price. However, the bought tea leaf factories association obtained a stay on this, which continues to this day.

The response of large producers to the crisis is closely tied to a series of shifts and slippages in public governance of the sector. Further, we point to the limitations of some recent policy interventions to address the 'crisis' in the plantation sector.

4 SLIPPAGES IN PUBLIC GOVERNANCE

4.1 *Trade Reform, Price Setting and Volatility*

In India, in the early years of planning, the global market orientation especially in a period of scarce foreign exchanges led to a governance structure that was more centralized with the setting up of exclusive commodity boards, such as the Tea Board, Coffee Board, Rubber Board and Spices Board (Cardamom Board) in the early 1950s, that regulated and supported measures to improve both production and marketing of the plantation products. The introduction of market-oriented reforms since the early 1990s saw the government moving away from direct controls to that of facilitating producers to improve productivity and to respond to global market signals better. Competitiveness in both global and domestic markets, as they are open to more imports, has become a major driver of new policy imperatives. These moves in a period of growing consolidation of market power at the retail end are argued to have led to considerable fluctuations and/or decline in farm-gate prices that have undermined livelihoods of numerous small growers. Further, the boards' functioning has been undermined due to poor staffing in the reforms period (Joseph and Viswanathan 2016b). In the case of rubber, the phasing out of the protected price policy regime in the post-reforms period make domestic rubber prices more vulnerable, and apparently, the prices that rubber farmers receive are often dictated by a few tyre companies that are the largest consumers of rubber produced in India.

Individual crops have certain ‘quiddities’ that shape price formation. Tea and coffee are highly differentiated by quality and flavour based on agro-climatic conditions, age of the bushes, quality of soil and elevation of the area. This differentiation finds its way into prices realized. As a result, grading and identifying quality is a critical component of price formation. Grades are, however, not globally standardized, making it difficult to have correct estimates comparable across regions. Auctions in the case of tea serve as mechanisms to capture the heterogeneity of tea as a commodity, but oligopsonistic markets imply that grading decisions tend to be skewed against the sellers. While direct marketing and retailing are now being undertaken by a few plantations, success stories of marketing among the small growers are absent. Post-reforms, wholesalers, retailers and exporters have consolidated and tightened their power through concentration in addition to use of non-tariff measures. With fewer exceptions, the commodity boards have not been able to undermine this trend by way of effective regulatory and governance measures.

4.2 Failure to Hold Plantations Accountable

Commodity Boards seek to regulate production, processing and marketing of the respective commodities, including conditions of workers. The Tea Act of 1953 empowers the central government to investigate any estate that has failed to meet its obligations to its workers through any defaults in payment. The Tea Board is also empowered to take over such estates where management has been negligent over issues of labour welfare. Such takeovers are hardly evident despite several violations of the management.

Workers, on paper, have recourse to the judicial route to ensure that managements comply with provisions of the PLA or other laws governing their terms of work and employment. However, in practice, judicial delays pose huge costs on such claim-making. Since it often takes years for the verdicts, there is a huge disincentive for workers or unions to rely on judicial interventions. Several estates, have not deposited provident funds due to them, for several years. The cases have been going on for at least 4–5 years in most such cases. Workers can ill afford such delays, and in this war of attrition, clearly, plantation management is better placed to wait.

4.3 *Poor Formal Standards for Labour Governance*

Wage rates in the small grower farms at present are similar to that of the large plantations, but workers are casually employed with no or very few social security provisions. It must, however, be mentioned that wages in these segments are set more by market processes though minimum wage legislations in some of the states do prescribe wage rates. Importantly, in states like Tamil Nadu, workers in recent years prefer to work as casual workers in smaller farms or on large estates rather than seek formal employee status under the PLA. Apart from poor compliance, lack of efforts to renew standards such as that for minimum wages or quality of schooling or healthcare is clearly responsible for such preference.

Minimum wages in India seldom constitute a living wage and to that extent cannot be held as a 'decent work' standard even in states like Kerala and Tamil Nadu. Such low standards of wage setting translate into high levels of indebtedness and interest payments accounting for a substantial share of monthly incomes. There are also gender differences in wage rates in the smaller estates. Outside of wage and employment contract issues, there has been a steady deterioration of the spaces of reproduction in the estates. Importantly, control over labour continues to be exercised through control over their spaces of reproduction. Housing, healthcare and educational facilities have all declined. Living space allotted to worker families have declined. In states like Tamil Nadu, estate roads are private roads and hence not open to outsiders, making any kind of labour mobilization difficult. These quality issues are also tied to rising inequities in quality of overall health and education provisioning.

4.4 *Research and Development and Overemphasis on Yields?*

The Chinese tea industry is believed to have shown higher returns for producers despite lower yields by emphasizing quality and marketing. While this may not be viable for a national-level strategy, incorporation of such strategies is likely to be useful. Importantly, mere emphasis on yields through subsidies for inputs may not imply better returns leave alone protection of the sector's ecological services. While state programmes are targeted at diffusing of techniques for quick increases in yield, there is lack of emphasis on issues of longer-term sustainability. Avenues for learning from experiments undertaken by growers, for example, need to be strengthened. Another important area that needs to be focused upon is

easing of conditions of work. The harsh working conditions increasingly deter segments of labouring households to continue to work in this sector. Importantly, given the importance of marketing (Joseph and Thapa 2015), sufficient emphasis has not been given to issues of packaging, branding and differentiation.

4.5 *Marketing Interventions*

The source of accumulation in the case of buyer-driven value chains as tea and coffee is increasingly in the domain of marketing through branding, product differentiation and packaging. This has been accompanied and, in fact, enabled by growing concentration in the retail and wholesale trading segment including the export segment. As histories of tea and coffee consumption show, markets can actually be created through marketing strategies. However, there is little public effort in this direction. For instance, many varieties of certified tea that originate from Darjeeling, Assam and the Nilgiris are yet to get wider attention and acceptance both in the domestic and international markets. It is also a matter of concern how the small producers can be brought under the certification process, as is already happening in case of tea in Kenya. Appropriate market interventions might help the certified tea or coffee produced by the small growers fetch higher (premium) prices in the markets, thus enabling them realize a part of the higher market value in the supply chain. In fact, a recent Food and Agriculture Organization (FAO) study⁵ has underscored the relative demand inelasticity for domestic tea consumption with respect to price. This is particularly important, given the rise in domestic consumption of tea.

In the case of coffee, it is said that inadequate state effort has gone into promotion of Indian coffee as shade produced and hence ecologically more sustainable (Marie-Vivien et al. 2014). Eco-labelling, GI certifications are possibilities, but as Marie-Vivien et al. (2014) point out, such measures too may be inadequate, given the emphasis on globally uniform standards that tend to pay less attention to variations in local biodiversities. Importantly, such certifications and standards are likely to create further differentiations among producers with the more powerful players taking advantage of such opportunities. More attention is needed to see how such certifications or new production standards are creating better

⁵ <http://www.fao.org/3/a-i4480e.pdf>. Accessed on 16 August 2018.

avenues for distribution of the gains for the welfare of the workers and small producers as well, given the fact that a vast majority of the plantations continue to be lethargic even to implement the basic provisions as laid out under the PLA. Importantly, they too draw attention to the emerging potential in domestic markets.

4.6 *Instruments for Addressing Price Volatility*

Price Stabilization Funds (PSF) have been in operation since 2003 under the aegis of the National Bank for Agriculture and Rural Development (NABARD) to provide income support to tea, coffee and rubber growers when prices fall below the minimum levels fixed. However, there has not been much response from the growers for this scheme across all commodities. Only a small percentage of total growers could be brought under the scheme, and among those who are contributing to the fund, there is a clear lack of enthusiasm (Chatterjee and John 2012). In the case of rubber, the proposed contribution of rubber growers to Price Stabilization Fund (PSF) corpus fund of ₹5000 million was ₹98.73 million, whereas in actual only ₹9.46 million was paid by the growers, as of 2009. One of the major problems the farmers were facing was that they had been continuously paying the instalment amount and were not receiving any contribution from the PSF trust. The PSF scheme does not enable the growers to withdraw the amount if they wish to. The scheme offers low interest rate payable on the deposit amount. Further, the real return by way of accrued interest on balances in savings bank account has also been negative, as the inflation rates have been higher than the interest rates. This has naturally slackened the enthusiasm of the farmers as well as that of the banking sector, since there is a time lag noticed between assistance available to PSF beneficiaries and loss suffered due to price decline. Above all, the gains obtained through the PSF are insufficient, particularly when the fund is meant to address only volatility and not secular decline in prices.

5 DILEMMAS OF UPGRADING: ECONOMIC, SOCIAL AND ECOLOGICAL

Going by the logic of upgrading, revival of profitability is possible through improving yields through better investments or moving into more value-added production or enter into downstream segments of the value chain such as marketing and hence take the 'high road' to profitability. It is clear

that taking the low road as most planters have done, in fact, undercuts the possibility of the 'high road'. Reduced maintenance or investments or reducing labour costs are likely to undermine the ability of estates to 'upgrade' into more value-added segments of tea production or invest in yield-augmenting practices. In the case of coffee, issues of labour access have led to reduced pruning, weeding and even removing of shade trees to avoid branch-lopping, thereby undermining prospects of sustaining its 'shade' cultivation.

The various moves by policy actors, larger producers and other powerful actors in the value chain have compounded the vulnerabilities of plantation labour through multiple intersections of identity and space. Most workers are from lower castes and at times also are from scheduled tribes and hence subject to other forms of discrimination. Often, they are migrants from other states and hence not integrated well into the regional political and social spaces. Tamil migrant workers in the Kerala plantations repatriate Sri Lankan Tamils in plantations in Tamil Nadu and now the entry of migrant workers from northeastern states—Bihar and Jharkhand—into the South Indian plantations are examples of this phenomenon. Further, though women workers have always been an important component of the plantation labour force, their share has increased with time even as institutions of representation such as trade unions continue to be over-represented by men. Above all, the spaces of plantation labour pose additional barriers for social inclusion. Often in remote parts of hilly terrain with little prospects for alternate employment, they are also disadvantaged by their inability to integrate with other labour streams or political mobilizations. Such intersections of space, caste and gender imply that even if producers are able to achieve a degree of economic upgrading through process, product or functional upgrading, it is highly unlikely that such gains in value will be shared with labour.

Plantations undermine and may also conserve local ecologies of resource use (Joseph 2010). Tea plantations, given their large-scale mono-crop cultivation, have destroyed biodiversities in ecologically critical areas such as the Western Ghats in South India (Rammohan et al. 2015). Extensive use of pesticides and chemical fertilizers, inevitable under such mono-cropping, apart from undermining quality of soil, also lead to ecological losses. Death of elephants feeding on the grass in plantations in Assam recently is an important instance in this regard. Loss of topsoil due to poor management is a major driver of soil erosion. In the case of coffee too,

draining of water used for pulping into river streams tend to pollute and lead to loss of habitats.

On the other hand, coffee is grown as an inter-crop in India and under shade, allowing for a much greater retention of biodiversity compared to the production in countries like Brazil that is largely mono-cropping. Further, coffee is grown along with pepper or cardamom in most parts of the country. Even in the case of tea, regulations ensure that lands cannot be converted for other purposes easily. As a result, even in the case of abandonment, it is not possible for land grabs to happen easily as it happens in the case of other agricultural crops.

Attacks on plantation workers by wild elephants, bears and leopards are not infrequent and have actually intensified in the last few years. Often, these conflicts are an outcome of resource conflicts driven by factors external to the plantations and the fact that bulk of coffee, tea and rubber production take place in geo-physical habitats that are home to a diversity of flora and fauna. They also are tied to watersheds of several rivers and hence ecologically linked to several livelihood options beyond specific crop production or even the immediate region. Clearly, these issues call for an approach that is not merely sector-specific but one that is simultaneously place-based and one that incorporates the role of eco-system services. In the next section, we highlight some possible pathways of upgrading along such lines.

6 POSSIBLE MODELS

6.1 *Plantation Economy*

The *Makaibari* experiment in the case of tea cultivation is an exemplar in this regard, using organic methods and combining tea cultivation with cultivation of native herbs and trees (Banerjee 2008). Importantly, as the *Makaibari* model suggests, incorporation of these factors into re-orienting production renders possible creation of diversified livelihoods among both small growers and workers. On a slightly different note, Rammohan et al. (2015) express apprehensions about the long-term viability of an approach that merely redistributes value to labour within the tea commodity chain. Instead, they propose a model of a diversified local economy that combines organic cultivation with eco-tourism and promotion of institutions for ecological learning.

Such interventions are worth considering, especially in a context where appropriation of surplus is happening primarily at the marketing end of the value chain and also in a context where there is a growing realization of the importance of eco-system services of such habitats. A few estates, but only a few, have bucked the trend and attempted to ‘upgrade’ within the tea value chain by either entering into direct retailing through branding and also through movement into better quality tea such as organic tea, green tea, white tea, and so on. A few others have tried to diversify into eco-tourism by renting out some of the estate bungalows. Given the dominance of the small growers among rubber and coffee producers, it is also worth looking at the different models of small grower collectives.

6.2 *Models of Small Grower Collectives*

Apart from older models of cooperatives, new forms of small grower collectives such as self-help groups (SHGs) and primary producer societies (PPSs) have been promoted by the government (Mansingh and Johnson 2012). In the case of tea, as part of the tea upgradation programme, the Central government partnered with UPASI to set up the UPASI-KVK which fostered SHGs among the small growers. Later, primary producer societies (PPSs) were promoted, first by a civil society organization the Centre for Education and Communication and Tradecraft (in partnership with the Department for International Development—DFID) and then with support from NABARD. They were soon federated and managed to organize themselves into better bargaining positions vis-à-vis bought leaf factories. However, it appears that since the cooperative imperative was thrust from the top and not driven by mobilization among the small tea growers, the initiatives have not worked in the desired directions. Further, given the financial vulnerabilities of small growers, the system of advances provided by agents continues to deter growers from selling their entire produce to societies. Expansion of rubber smallholdings also has been facilitated with the rubber producer societies (RPSs) acting as the local institutions. However, this collective grower organization is seen to be losing its relevance as it failed to effectively address the woes of small producers at times of crisis. The coffee growers’ cooperatives too have lost sheen over time. It does, nevertheless, appear that the experience of PPSs has lessons for pushing the collective models forward.

6.3 *Issues in Diffusion of Small Grower Production and Sustainability*

While the move towards the small grower model has certain positive features such as better distribution of returns to production, there are also concerns. Given the poor returns, they can seldom afford to introduce practices that may have better returns in the long run but may undermine their viability in the short run. Cultivating under distress, they are often forced to cut costs incurred in maintaining the farm or increasing yield through soil conservation measures. The recent reports of traces of metal granules (such as lead) and chemical contaminants in tea are causes of concern, needing more attention on quality orientation of the segment. Further, to ensure a livelihood that is not completely tied to a specific crop requires them to diversify which cannot be supported through a commodity-specific approach.

Upendranadh (2010) suggests dovetailing of public works programmes with works directed at sustaining ecological practices in the plantation regions, such as renovation of local water bodies, introduction of mulching to address topsoil erosion, planting of native species of trees amidst the farms and, importantly, maintaining them. This suggestion is definitely worth considering as it may also address concerns expressed by sections of small growers about programmes like National Rural Employment Guarantee Programme (NREGP), denying access to labour at lower rates. Further, as Das (2013) demonstrates, the role of infrastructure such as power and processing facilities in addressing issues of costs and quality for small growers have not been adequately addressed. Though the Tea Board's support for micro-irrigation works is a good step in this direction, Das (ibid.) argues for more attention to improving processing capacities and marketing infrastructure.

Last, but not the least, there is a strong case for intervening in the small grower-producing segment in case of both tea and coffee so as to improve the share of value accruing to them in both domestic and global value chains, especially in a context of increasing competition, faced by the sector in the wake of global market integration. The Tea Board and Coffee Board being the sole promotional agencies that the small producers can seek for any support should strive to make this possible through strategic investments for infrastructure development in terms of setting up of new processing factories as well as upgrading the facilities of the existing processing facilities. The ability of small growers to imagine their livelihoods being tied to long-term sustainability, ecological sustainability, in particu-

lar, maybe restricted because of the vulnerabilities and risks that affect their margins in the short term. Interventions therefore have to ensure adequate incentives for small growers in this regard. Simultaneously, non-sectoral interventions that allow for diversification of small grower livelihoods may also contribute to risk mitigation and improved welfare.

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Informality in the Indian Automobile Industry

Timothy Kerswell and Surendra Pratap

I INTRODUCTION

Globalization has led to industrial restructuring, linking informal sectors with global value chains. Globalization and liberalization in India have created a vast reserve army of labour, surviving in precarious informal sectors. The informalization of the workforce emerged as a cumulative impact of specific development strategies, accomplished through informalization of the formal sector workforce and the transfer of jobs from the formal to informal sectors. Firms increasingly operate with a small core of permanent formal wage workers and a growing periphery of informal wage workers.

We conceptualize the automobile commodity chain in India as being structured in three tiers. Lead firms, run by brands, conduct final assembling of the product. This is done using components supplied by Tier I

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factories and basic parts supplied by the Tier II factories. There is a massive network of Tier II factories—small-scale informal enterprises employing most workers in India’s automobile industry. In lead firms and factories under Tier I, the workforce is mostly informalized. Informal workers in the auto industry accounted roughly about 70–80 per cent of the workforce (ET Bureau 2011) in lead firms and Tier I and almost 100 per cent in Tier II.

This study explores informality in various tiers of the automobile value chain in India. The industry produces about 1.69 million vehicles per year, including passenger and commercial vehicles. India’s automotive sector employs more than 13 million workers, making it a significant part of India’s industrial base (IBEF 2015). The study is located in the two major industrial clusters of Haryana—Gurgaon-Manesar and Faridabad-Ballabhgarh—that form most of the National Capital Region automobile manufacturing hub.

2 METHODOLOGY

Primary data were collected through semi-structured interviews with workers, unionists and managers in the Gurgaon-Manesar and Faridabad-Ballabhgarh regions of Haryana, India. Haryana is one of the most important hubs of India’s automotive manufacturing sector and was selected for its significance. Haryana accounts for 75 per cent of passenger cars, 50 per cent of tractors and 60 per cent of motorcycles manufactured in India (CII 2015). The most prominent manufacturing centres of the state are located in Gurgaon-Manesar and Faridabad-Ballabhgarh. Gurgaon-Manesar hosts many major assemblers and a considerable base of suppliers. Faridabad also hosts some lead firms, but it is a major manufacturing centre of light automotive components, with vast clusters of small-scale part manufacturing. Such is the dominance of the industry in Faridabad that the automobile sector accounts for 55 per cent of total business (Ibid.).

The interviews, conducted in 2013–14, covered 2 lead firms, 4 Tier I and 14 Tier II factories with a purposive sampling approach whereby a significant part of the automobile value chain would be studied. Lead firms and Tier I factories were selected by chain referral sampling through pre-existing networks in the union movement. Tier II factories, centrally important to the study, but largely unorganized, were selected via a random sampling approach. Within the factory environment, purposive sampling was conducted in each category of interviews (workers, unionists and managers). In total, there were 15 management interviews, 1 in a lead

firm, 4 in Tier I firms and ten in Tier II firms. There were 40 worker interviews, 10 in lead firms, 10 in Tier I and 20 in Tier II. Finally, there were interviews with three union groups covering enterprises in lead firm and in Tier I firms (Tier II being unorganized, there could not be union interviews).

3 THEORETICAL FRAMEWORK OF THE STUDY

Informality is understood through the dualist, legalist and structuralist approaches. Dualism sees the informal sector as a residual pre-capitalist economy, arguing capitalism and modernization will formalize the workforce. Lewis (1954) saw a strict division between subsistence activity and high-productivity capitalist manufacturing. The experience of industrialization in most developing countries has discredited dualism. In India, 84 per cent of the manufacturing sector workforce is employed in the informal sector (Mishra and Shankar 2013, 5). This is a robust empirical case against an association between the informal sector and the subsistence economy.

The legalist school emerged with the work of De Soto (1989), who focuses on the interaction between enterprises and the formal environment of regulation. De Soto argued that collusion between formal sector capitalists and government develop bureaucratic ‘rules of the game’. From his perspective, entrepreneurs attempt to creatively escape bureaucratic strictures which is the motive force generating informalization (De Soto 1989, 244). This perspective is most closely associated with the ideology of neoliberalism and views the entrepreneur as creatively avoiding the legal strictures of government.

The structuralist school sees the informal economy in a symbiotic relationship with the formal economy. The competitive drive to reduce labour costs leads capitalists to promote informal production (Moser 1978; Portes et al. 1989). Capital thus secures cheap labour and other inputs. This perspective contributes to the debate about understanding the informal sector, particularly regarding the debate between the legalists and structuralists.

Additionally, this study explores the dynamics of automobile production in India. Commodity chain analysis method has been selected for this purpose. Hopkins and Wallerstein (1986, 159) define a commodity chain as “a network of labour and production processes whose end result is a finished commodity”. The global commodity chain method was developed

by Gereffi (1996) to analyse the impact of globalization on various industries. Gereffi focuses on the way lead firms institute a governance structure, regulating operation of other firms in the commodity chain (Humphrey and Schmitz 2001, 3). The power of lead firms to dictate the structure of production, and the amount of value that flows to each sector, enables lead firms to extract maximum value. We identify the way lead firms are extracting value from subordinate firms, and we assess the impact this has on workers in subordinate firms.

Barrientos et al. (2010, 1) noted “analysis of global production networks and value chains has focused mainly on firms, often overlooking the role of labour” treating labour as a production factor rather than social agents (e.g. Sen 2000). We address this gap through a focus on work, workers and working conditions, highlighting systematic violation of India’s labour laws and transgressions of international labour rights norms. The study raises questions with respect to improving workers’ conditions.

We use commodity chain analysis to understand informalization of India’s automobile sector. Most commodity chain analyses focus on globally traded industries. While India’s automobile sector engages in a degree of export production, most of the sector produces parts domestically for domestic consumption. The study demonstrates the way lead and Tier I firms exercise power over both Tier II suppliers and the automotive workforce as a whole to extract maximum value from the commodity chain. This creates dynamics that immiserate automobile workers, explaining industrial conflict in the sector.

Another critical concept in the commodity chain perspective is industrial upgrading, where commodity chain participation offers the possibility of improvement where firms participate in higher value-added activities (Gereffi 1999, 39). Industrial upgrading is thought to occur when physical and human capital development result from investment in certain industries (Porter 1990). Gereffi argues that capital accumulation is a necessary but insufficient condition for industrial upgrading. In particular, Gereffi compels an explanation of how firms (and nations) can transition from being part producers or assemblers into full-package producers. Critical to this process was the development of knowledge that would enable supplier firms to compete for higher value-added goods (Gereffi 1999, 39). The study examines whether or not industrial upgrading is occurring, by examining the extent of technological transfer.

The study provides a detailed examination of production relations in India’s automobile sector, particularly the informal sector. Dualist, legalist

(Gurtoo and Williams 2009; Martin 2009) and structuralist (Chakrabarti and Kundu 2009, 27) perspectives have led to various studies of informality, including in India. While there have been various other studies of the automobile supply chain in India (Barnes et al. 2016; Barnes 2016; Sutton 2004; Babu 2012; Balakrishnan et al. 2004), the use of commodity chain analysis is rare and mostly oriented towards the performance of firms. There have been no studies which focus on the position of labour or the issue of informality within a commodity chain in the automobile sector in India.

Finally, the study demonstrates the irrationality of production relations that have emerged as the result of the anarchy of capitalism in India's automobile industry. Baran (1973, 133–4), in *The Political Economy of Growth*, had famously advanced the concepts of 'actual economic surplus' (social production minus consumption), contrasted this with 'potential economic surplus', possible if production relations were rationally ordered. The study demonstrates the way unproductive middlemen, in particular, labour contractors, accumulate a part of the surplus. We demonstrate that production in India's automobile sector generates waste in rejected parts but also with the industry cannibalizing itself at the expense of small-scale firms and their workers.

4 FINDINGS OF THE STUDY

4.1 *The Nature of Informality in Lead Firms and Tier I Factories and Implications*

4.1.1 *Informality in Workforce*

Informality is reflected in the structure of the workforce varying considerably across tiers of the automobile supply chain. In lead firms, the number of workers per factory was significantly higher, with lead firms engaging approximately 6000 and 3000 workers, respectively. The proportion of contract workers in lead firms was 62 and 67 per cent, respectively. Few (<1 and 4 per cent) workers in lead firms were engaged as casual workers directly. The proportion of local workers (workers not migrated from another state in India) was higher in lead firms in comparison to Tier I and II factories.

The education of contract workers was equal to or higher than the permanent workers, and the permanent workers are older. This was an interesting finding that would be seen repeated across companies. In the

prevailing situation of unemployment and jobless growth, better-educated workers are seeking low-paid jobs in factories. The education level in India's society has also increased in recent decades. Workers who were able to secure formal positions either began work before or in the initial years of India's liberalization or because they were fortunate/connected enough to secure permanent employment.

The workforce in the Tier I factories ranged from 100 workers to just above 1000 workers. The structure of the workforce varied considerably with the nature of products and production operations. In a labour-intensive plastic moulding factory, contract workers formed up to 97 per cent of the workforce, but in a capital-intensive factory, contract workers were 60–70 per cent, almost same as lead firms. Migrant workers formed more than 70 per cent of the workforce in Tier I. Most contract workers interviewed in Tier I were 25–30 years old, while most permanent workers were 30–40 years old. The educational qualifications of both contract and permanent workers varied from tenth standard to industrial training institute qualifications (technical or trade certification). The mode level of qualification for contract workers was higher secondary school (completion of the 12th year examination), whereas for the permanent workers it was secondary school (completion of the 10th year examination).

4.1.2 Wages and Working Conditions

Wages and working conditions varied considerably across the automobile supply chains. In lead firms, wages and working conditions for both formal and informal workers are far better than in Tier I. Lead firms' management reported active concern for the welfare of contract workers and ensured similar working conditions for contract and regular workers. The contract workers do similar work as regular workers and the nature of work, working hours, overtime hours and workloads are identical. Contract workers are provided with the same facilities as regular workers, like drinking water, toilet/canteen facilities, uniform, safety equipment and transport facilities.

However, wages of contract workers in lead firms were very low in comparison to that of the permanent workers. Of the two lead firms studied, in one, the average monthly wages of contract and permanent workers, respectively, were ₹18,000 (US\$300) and ₹45,000 (US\$730) and in the other ₹6500 (US\$105) and ₹30,000–40,000 per month (US\$485–650).¹

¹Conversions to US\$ were made on 10 November 2014.

Overtime was a feature of work in this industry and was reported at 2–4 hours daily, varying significantly according to industry demand. In one factory, both the regular and contract workers benefitted from a premium rate of overtime; however, in the other, the overtime payment was at the rate of single hourly wages for contract workers, as against double wages for regular workers (as provided for in the Factories Act, 1948, for overtime wages).

One of the important factors behind the marked difference in wages of contract workers in two lead firms appears to be presence or absence of active role of trade unions in protecting the rights of contract workers. The unions were working in both lead firms for a long time; in one of the factories, the union was proactively raising the issues of contract workers for a long time, and along with compliance of important labour standards, it was also able to win some wage increments for the contract workers. But the union in the other factory became concerned with the issues of contract workers only recently. This is also evident from the fact that the contractors in this factory were simply looting the Employees State Insurance (ESI), which covers medical expenditure and Provident Fund (PF), which funds retirement contributions of the contract workers and not depositing it in the ESI and PF department, and only recently, with pressure from the union, the management took steps to ensure that the contractors duly deposit the ESI-PF contributions of the contract workers.

In both the lead firms, almost all contract workers were covered under ESI and PF, and they also got annual bonus, along with paid weekly off and paid annual leave.

In Tier I, there were noticeable variations in contract workers' wages and working conditions. This was determined by the nature of production operations with compulsions to retain certain key skills. There were also variations associated with the presence or absence of effective unions. Of the four Tier I factories, two had active unions. Wages of regular workers varied from ₹8000 to ₹28,000 (US\$130–454) with total earnings (normal wages for eight hours work plus overtime wages) from ₹12,000 to ₹30,000 (US\$195–490). Contract workers received only the minimum wage in Tier I factories and their total earnings (Normal wages plus overtime wages) varied from ₹7000 to ₹10,000 (US\$115–165).

Workers in Tier I reported that the overtime was for about 2–4 hours daily. At the time of interviews, there was a decline in overtime, reflecting downturn in the industry and thus a decline in their total earnings. In factories where unions were present, permanent workers were getting an

overtime payment at either 200 per cent or 150 per cent. But contract workers in these factories were paid overtime at the rate of single hourly wages. In factories with no union presence, both permanent and contract workers were paid overtime at the rate of single hourly wages.

In factories in which there was no union, workers reported contractors failed to either deposit ESI and PF contributions or provide formal documentation for the same (ESI cards and PF slips). In one unionized factory, union reported that two out of five contractors often failed to deposit the ESI and PF contributions of contract workers, a matter the union routinely raised with management. That such statutory defaults concerning social security could be prevalent in a unionized factory at the higher end of the commodity chain is suggestive of the likelihood of this being widespread in India's automobile sector, and manufacturing more broadly.

There was variation between permanent and contract workers in work benefits in some factories. In one factory, contract workers were only provided a shirt for their uniform, and a lower subsidy was provided to contract workers for transport and canteen than permanent workers. By contrast, in the other factory, these benefits were more or less similar for both contract and regular workers. In factories with no unions, there were cases of both transport and canteen subsidies being denied to both permanent and contract workers, or them being provided only to permanent workers. However, safety equipment and workplace facilities (drinking water, toilets) were the same for both contract and regular workers in all the factories. The nature of work, workload, working hours and overtime hours were also the same for both contract and regular workers.

4.2 *The Nature of Informality in Tier II*

Tier II enterprises are small-scale enterprises not registered under the Factories Act, 1948 (a central government legislation); many of these engaged more than ten workers (and using power) and therefore required to be registered, but probably they avoided because registrations under the said law would require stricter compliance with regulations which has cost implications. The workshops are 50–60 m², except a few larger ones at 80–100 m². None of these small factories has proper lighting, ventilation or air conditioning with only some workshops providing evaporative coolers. At most, we observed ceiling fans, which created a horrible environment during summer for the workers. The lack of safety was extreme, and we routinely observed workshops where hot metal forging took place by

hand without any safety equipment. Workers were hand pouring molten steel into moulds in dark and unventilated workshops.

Tier II enterprises are largely stagnant regarding their size and technological standards and were not showing upward mobility in the supply chain. Management in Tier I reported that generally, no upward mobility is seen in the Tier II enterprises even after years of business relationships with Tier I. Tier I management listed problems like limited vision, skills and professionalism explaining lack of upward mobility. However, a different picture emerged in interviews with Tier II enterprises where managers/owners emphasized that the business environment blocks upward mobility.

4.2.1 Workforce Informality

Tier II enterprises generally produced the smallest motor vehicle parts. The structure of Tier II enterprises was noticeably different from the rest of the supply chain. Workforce size varied from 5 to 80, but in most enterprises, there were less than 20 workers. Almost all the workforce in Tier II were casual workers directly engaged by the enterprises. Labour contracting is rare as contractors charge a commission on contract worker wages, a cost that the smaller enterprises in Tier II cannot bear. There are rarely any permanent workers in Tier II. In Tier II, we find piece rate work as opposed to fixed salaries (based on time rate) albeit not in a uniform way. This tier of the supply chain is almost entirely run by the migrant workers, mainly from India's poorer states such as Uttar Pradesh, Bihar and West Bengal. Workers interviewed in Tier II varied from 19 years to 48 years old and their education varied from basic levels of literacy to completion of 12-year schooling.

In Tier II, there was a notable difference in the presence of women workers in an otherwise almost completely male-dominated industry. Most of these workers were helpers, but some were machine operators. Of the 14 Tier II enterprises, we found women workers engaged in 4. All the women were married and 25–30 years old. The education of women workers varied from basic literacy to five-year schooling.

4.2.2 Wages and Working Conditions

In Tier II factories, all operators were paid the minimum wage though not entirely in the case of helpers. In some enterprises, helpers get the minimum wage, while in others they get less. Wages of women (machine operators) were less than men. Even when wages were the same, total earnings of workers varied considerably due to differences in overtime availability.

Total earnings of helpers and women operators ranged from ₹5500 to ₹7000 per month (US\$90–115), while earnings of male operators ranged from ₹7000 to ₹10,000 (US\$115–165) per month. This contravenes Indian labour law including the Equal Remuneration Act 1976, the Minimum Wages Act 1948 and various articles of India's constitution. The extent to which India's laws are broken or circumvented is discussed later in this chapter.

Total earnings of piece rate workers were higher than the time rate workers, but they faced more problems with irregular work and irregular earnings. The workers suggested there is regularly between 2 and 4 hours of overtime, which can change when the industry faced a downturn.

4.3 *The Living Conditions of Informal Workers*

Living conditions for informal workers are deplorable. The workers migrate from their home town or village without families as their income is insufficient to live with family. We found that 4–5 workers would share rented slum accommodation which would typically include no toilets or kitchen. They would live in a single room and also prepare food there. More than ten workers share a communal washroom. In most cases, rooms have no proper lighting and ventilation, and they often face power cuts. This makes the lives of workers particularly difficult in India's summers. To reach the workplace on time, they must wake up very early in the morning, a problem exacerbated by the lack of facilities like washrooms and drinking water supplies. Considering that when overtime is included, work is a 10 to 12-hour day, their living circumstances are a serious concern. To compound these problems, workers reported that room rents are subject to yearly increases, and workers pay about ₹600–1000 (US\$10–16) per month per head in rent if four workers are sharing the room.

4.4 *Supply Chain Relationships*

Between lead firms and Tier I factories, formalized long-term relationships exist for supplying specific components; interviews with lead firm management confirmed this. However, there is no formalized long-term relationship (of lead firms or Tier I firms) with Tier II small-scale enterprises which supply basic parts for the automobile industry. It was revealed in the management interviews that most of (if not all) the formal contracts between lead firms and Tier I firms include a clause for compliance of

Indian labour laws, but as will be demonstrated, this is a formal requirement not substantively practised. Specialists from lead firms generally visit Tier I factories for quality control and contribute technical improvements or training. Tier I management reported a significant cost pressure. In contract negotiations, lead firms were concerned with the quality and timely supply of parts, and cost-cutting.

Tier I firms have a subordinate position in the commodity chain, depending on lead firms for survival, enabling lead firms to squeeze Tier I firms for surplus by maintaining low prices for components. Management of lead firms and Tier I firms confirmed that there is no technology transfer from lead firms to Tier I. Gereffi (1999, 39) noted that technology transfer is a crucial requirement for industrial upgrading. However, dynamics of the relationship between lead and Tier I firms concerning compliance with labour laws raises a concern whether Tier I enterprises and workers will ever experience greater prosperity in the industry.

In contrast to the lopsided, but relatively stable, relationship between lead and Tier I stands the relationship between Tier I and Tier II, conducted informally without long-term contracts. Long-term relationships can exist, but they emerge gradually and informally through repeated business dealings. Unlike lead firms that seek single suppliers for different components, Tier I factories used multiple suppliers for specific parts. This has a significant impact on industry dynamics with orders varying considerably. Managers of Tier II enterprises suggested that pressure for cost reductions was a significant concern, with Tier I enterprises not interested in the viability of their enterprises or the well-being of Tier II workers.

The result is that Tier II management reported that the prices of many parts had not been revised for several years, irrespective of increasing costs of production. The multiplicity of suppliers and intensely competitive market in Tier II makes it impossible for the Tier II companies to increase prices, meaning any productivity gains are absorbed by Tier I. There was also no evidence of technology transfer from the Tier I factories.

Tier II enterprises operate on extremely small margins, making improvements in wages or working conditions almost impossible within current industry structure. In lead firms and Tier I enterprises, there was some observation of how different levels of bargaining power (in particular, the role of unions) determined workers' value share. In Tier II enterprises, workers have little bargaining power. However, even if they were able to obtain significant leverage over their employers, there is little margin that workers could obtain while running a viable enterprise. From this, we can

conclude that the miserable conditions faced by workers in Tier II are a direct result of the structural dynamics of the automobile industry—in particular, the ability of lead and Tier I firms to exploit the intense competition between Tier II firms that operate within an unregulated environment.

4.5 *Flexible Production and Informal Employment*

A common claim by businesses and economists is that enterprises need labour market flexibility to operate efficiently and successfully. Solow (1998, 1) includes various policy measures under the definition of labour market flexibility, stating that a labour market is inflexible “if the level of unemployment-insurance benefits is too high or their duration is too long, or if there are too many restrictions on the freedom of employers to fire and to hire, or if the permissible hours of work are too tightly regulated, or if excessively generous compensation for overtime work is mandated, or if unions have too much power to protect incumbent workers against competition and to control the flow of work at the site of production, or perhaps if statutory health and safety regulations are too stringent”.

One of the arguments of legalism is that the informal sector exists to avoid the oppressive regulatory environment of the formal sector. In this section, it can be noted that despite most employment in India’s automobile industry being informal employment, in practice, this flexibility is hardly ever utilized by the enterprises in the study. The automobile industry is constituted by a stable workforce, with varying levels of demand being handled by increases and decreases in overtime hours.

This sheds light on the political economy aspect of the labour market flexibility argument. Guha (2009, 45) demonstrated that there is no statistically significant relationship between labour market flexibility, employment and output growth. In this section, we seek to show the overtly political way managers in the Indian automobile industry think about flexibility, with managers admitting that the industry could efficiently operate under conditions of predominantly regularized employment. The concept of flexibility is thus laid bare as nothing more than a pseudo-technical justification for a power distribution favouring capital, preventing the development of unions and collective bargaining frameworks.

There were no significant variations in the size of the workforce in lead firms and Tier I reported by either management, workers or unions. These were more commonly reported in Tier II. Across the supply chain, there

is a practice of engaging a downsized workforce and meeting work quotas through overtime. This practice takes care of the normal variations in demand. When there is a need to decreased production, overtime work is reduced to a minimum or stopped.

Unlike the lead firms and Tier I enterprises, Tier II enterprises have no long-term relationship with customers. Work orders are erratic with the workforce size varying significantly by demand. This critical factor gives lead firms and Tier I companies a commanding position in the commodity chain, and the power to extract maximum value from Tier II. The Tier I companies keep multiple suppliers in Tier II and can play Tier II enterprises against each other, deriving maximum benefit from the competition.

In interviews with lead firm management, it was explicitly mentioned that orders to suppliers in Tier I remain stable when suppliers source parts from a single vendor. However, when sourcing parts from multiple vendors, the order rate is more erratic. Lead firm managers noted these fluctuations are insignificant, occurring only in exceptional cases due to the need to establish long-term relationships with suppliers. Managers suggested that only in a severe downturn would there be a significant change.

In lead firms, there is no variation in workforce size based on demand. The normal ebbs and flows of demand are taken care of by increasing and decreasing overtime work. Industry downturns lead to recruitment freezes and natural attrition. While the status of contract workers is insecure, it is inaccurate to say that they are thrown out of work. Managers reported that human resource departments work out a strategy based on recruitment freeze and reallocation of workers to different departments, and very rarely are contract workers discontinued. Unions and workers corroborated this finding.

Despite insecure work status resulting from contractualization/casualization of workforce, the workers, particularly in lead firms and Tier I, and to a large extent in Tier II as well, remain almost consistently employed. Here, we see evidence of a direct violation of India's labour law. The Contract Labour (Abolition and Regulation) Act (1970) (the Contract Labour Act) was designed with the explicit objective that contract labour should not be used in perennial kind of operations. This act reflects a bygone period of India's industrial relations based on Fordist production which has been transcended by the increasingly informal and flexible nature of manufacturing.

In one lead firm, the management claimed that about 90 per cent of the contract workers are effectively employed on a permanent basis. A significant proportion worked in the company for more than five years, and most

worked more than three years. A small number of contract workers are genuine temporary employees, hired and fired frequently. Based on interviews with management and workers, considered over a five-year period, workforce size has remained about the same. In another lead firm, union interviews revealed a similar story corroborating the management perspective. No significant variation was found in the size of the workforce, including the number of contract workers, in five years, with most contract workers in the same company for more than three years.

Tier I companies operate with a highly downsized workforce and excessive use of overtime. Most contract workers have worked for the same company for 3–5 years, and there was no significant change in workforce size in the last 5 years. In analysing management responses, cognitive dissonance was observed. Managers stated that flexibility and thus contract workers were the only effective strategy to deal with the variations in production. Despite this, they stated that changes in demand do not significantly impact their human resource strategy in hiring and firing contract workers. They also mentioned workforce size remains stable, including the number of contract workers. In one of the interviews, management was explicit that on the one hand there is no consistency in demand, so a flexible workforce is a compulsion, and on the other hand admitting more than 70 per cent of the contract workers have been in stable employment with the company for 3–5 years.

Tier II had more variations in production orders reported. There were only a few enterprises with a more stable relationship with their suppliers and accordingly less variation in production orders. In most enterprises, managers reported no formal long-term contract for supplying parts, with orders based on monthly or weekly demands. This does not mean customers change suppliers every month/week, but the number of orders may vary for particular suppliers each month. The irrationality of the industry structure has an impact on both small-scale firms but also on the small-scale manufacturing workforce.

Frequently, Tier II enterprises place one-time orders to supply certain parts, particularly in situations when other suppliers have failed to supply parts, or when the Tier I customers want to change their suppliers and provide orders as a test case. Customers use multiple suppliers and make several changes to the number of orders for different suppliers. There is intense competition among Tier II suppliers for orders, and the Tier I customers often divert orders to alternative suppliers to take advantage of this. Many Tier II suppliers also produce certain spare parts for the open market whose demands vary significantly.

The cumulative impact is varying demand for labour. This creates churn with some workers moving from enterprise to enterprise, mostly within the same industrial area. However, we also found some casual workers working for the same company for more than 2–3 years—meaning even if casually employed, they are a stable part of the enterprises.

4.6 *Non-compliance with Labour Laws and Implications for Informality*

Non-compliance with India's labour laws is a serious problem across the automobile supply chain, with seriousness of the problem increasing towards the lower end of the supply chain. In lead firms and Tier I firms, a revolving list of labour contractors are utilized with workers periodically shifted from the role of one contractor to another. Interviews revealed workers were often not aware which contractor employed them as they had been shifted so many times. This practice is followed to save labour cost by way of denying benefits that are linked with length of service, for example, earned leave, gratuity, notice pay, retrenchment compensation and so on, and also to deny them any space to claim regularization. Contract workers reported getting a regular 'break' before completing six months, that is, before completion of probation period; however, while they continue working in the same factory, on rolls they become fresh workers and lose their length of service.

The contract workers were observed performing identical work as regular workers but receiving half to one-third the wages. Interviews revealed contract workers had worked five years in the same company, still receiving the minimum wage. The most extreme case was a contract worker in a Tier II factory working in the same company for almost ten years on the minimum wage.

Tier I and Tier II managers downplayed this, emphasizing regular workers had greater service, justifying the wage differentials. On further examination, this was unconvincing, as many contract workers were in the same factories for up to ten years without approaching the pay level of permanent workers. While there were some differences in length of service, the comparison is not between a highly experienced worker and a junior worker, but the contract workers in question having between three and five years of experience. Given this, there is little justification for them to be paid the minimum wage, or half to one-third of the permanent workers' wages, under the legal principle of equal work for equal pay.

A theme in the automobile industry's work practices is maintenance of a downsized workforce, with high levels of work intensity and routine use of overtime beyond legislated limits. Built into this system is the reality that most workers' ordinary time wages are not living wages, even within the context of low living standards. Workers expressed significant concern about any drop in working hours as overtime payments form a significant portion of their total earnings. The workers reported a general trend of 2–4 hours of overtime daily across the supply chain. Management in both Tier I and Tier II accepted that the overtime work is beyond legislated limits, but they acknowledged this as an industry-wide practice.

A premium overtime rate is legislated in India's labour law. However, overtime payments of contract workers were set at the basic hourly rate of wages with few exceptions in Tier I. Often, there was open discrimination between regular and contract workers. Despite doing the same work in the same factory, regular workers got a premium rate of overtime which contract workers didn't. The law provides for both paid leave and paid days off, but these are denied to contract workers, except in some Tier I factories.

The question of legal documentation proving the employment relationship is another matter of disconnect between labour laws and actual practice. The law provides that all workers must get formal contract letters, but most factories don't issue workers' documentation. In factories without a union presence, contractors reportedly made payroll deductions of ESI and PF contributions. However, workers were not provided with ESI cards and PF slips, meaning they are unable to claim benefits. Unions reported that most contractors do not deposit the ESI and PF contributions and pocket the additional money. While unions have reported mixed success in responding to this, if these kinds of irregularities are possible in factories with a union presence, it can be assumed that it is a widespread practice, all the more possible in non-union factories.

Interviews with management and unions established the principal motive of sourcing labour from contractors to minimize labour costs and marginalize unions. One manager stated, "in cases where a larger proportion of the workforce is regularized there are more chances of 'union problems' and of course the larger proportion of regular workforce means higher costs to the company". Legally, workers in India have rights to organize under the Constitution of India [Article (19)(1)(c)] and under labour laws like the Industrial Disputes Act, 1947, and Trade Unions Act, 1926. However, in practice, contract workers cannot even prove their

place of employment, and so, they cannot form or join a union in a formal sense as the union registration process as mandated in the Trade Unions Act requires employment details for formal registration of a union.

In Tier II, where most enterprises are small-scale manufacturers, many engage more than ten workers and should fall under India's Factories Act. They report less than ten workers to escape obligations towards workers under various labour laws and occupational health and safety standards. They are registered under the Shops and Establishments Act, except some of those with a comparatively larger workforce.

Whatever the size, there was no significant difference in wages and working conditions across the cluster. Even under the Shops and Establishments Act (ILO 2015), it is necessary to provide formal contract letters and follow basic labour standards like working hours, overtime hours, wages, paid leave and occupational health and safety standards. However, workers interviewed in Tier II reported numerous irregularities. Overtime is so excessive that some enterprises run 2 × 12-hour shifts, some helpers are paid less than the minimum wage, no paid leave is provided and no occupational health and safety standards are followed.

4.7 *Understanding Informality*

The informalization of the workforce reflects the anarchy of capitalism and is a serious problem in the automobile industry. A rationally ordered industry would distribute surplus so firms at every level of the supply chain would be viable, and capable of ensuring living wages and safe working conditions. The anarchy of the industry affects not just workers well-being but that of the industry in general. India has seen a rising tide of industrial activity in the automobile sector.

Interviews across management, unions and workers noted general acceptance that engaging a large proportion of informal workers creates problems even for employers. In a Tier I management interview, it was raised that machines are broken by rough handling of unskilled contract workers, creating losses for the factory. Similar concerns were raised by Tier II enterprises. Lead firms and Tier I factory management accepted that managing and controlling multiple contractors was a serious company headache.

Unions agreed the contract labour system had created a vested interest of local politicians and musclemen, creating a layer of corruption which further reduced the surplus available for both wages and profits. This stra-

tum of society is the epitome of unproductive labour, which accumulates surplus that in a rationally ordered society would remain with the firm for capital accumulation or be paid to the workers to improve their wages (Baran 1973, 144).

Aside from intermediaries, management interviews in Tier I reported acute shortages of labour during harvest and festive seasons. Workers corroborated this, confirming they go home for harvest and return after 1–2 months. Informal workers have no hope for long-term job security and reported an understanding that they may be out of work around age 45 as contractors are rarely hired beyond this age.

This circumstance creates incentives for an ongoing connection farming or other forms of village employment. Similarly, the status of informal workers creates little bond between employee and workplace. As informal workers, with no apparent hope of regularization, they do not identify with the interest of their employers, knowing they may get a comparable job in another factory when they return.

A similar attitude exists in casual workers in Tier II who return home during harvest and festive seasons for 1–2 months. During this time, Tier II enterprises face an acute shortage of labour. The problem has led some employers in Tier II to provide subsidized accommodation to workers in the adjacent workers ‘colony’. The owner rented a few rooms to workers on slightly subsidized rent. As a result, many workers chose not to return home to retain the rent subsidy.

Against this, management interviews revealed a clear opposition to regularization as it would involve increased costs and invitation of ‘union problems’. In one interview with Tier I management, they pointed out that considering the current level of flexibility required, the automobile industry in lead firms and Tier I could afford to regularize about 70 per cent of the workforce. Management suggested this would be good for the smooth running of production operations and avoiding dealings with middlemen such as labour contractors. However, management did not view this as a viable trade-off due to increasing costs and a potential increase in unionism.

Informality in Tier II enterprises is different from lead firms and Tier I, being linked with the informality of enterprises themselves. In areas of small-scale manufacturing clusters in Faridabad, roads are in terrible shape, and lanes get flooded during rainy seasons (ET Bureau 2011). The enterprises face severe transportation problems when timely delivery of parts is a crucial factor of business. Power cuts for long durations are a severe

problem. All enterprises are forced to run production through generators due to the unreliable electricity supply. On average, they spend more than ₹24,000 (US\$400) per month fuelling large generators. Small-scale enterprises also find it difficult to access credit. Thus, when there are delays in payments or unexpected orders, enterprises lack cash flow to purchase raw materials becoming forced to take loans from the informal market at very high interest rates.

According to managers/owners of Tier II, Tier I customers consistently apply cost reduction pressure. Prices have not increased for years, despite cost of production increases. Moreover, there are significant losses to Tier II in the rejection of parts by Tier I. Higher rejection rates are due to two factors, viz. lack of sophisticated machinery and lack of skilled workers. Due to variance in work order volume, it is not sustainable for Tier II companies to retain significant numbers of skilled workers, with Tier II companies having to survive with a mostly unskilled labour force. This problem becomes exacerbated when demand rises. Correspondingly, the parts' rejection rate increases, and machines are also broken due to rough handling. Some enterprises reported losses of ₹15,000–20,000 (US\$250–335) per month. The current rejection rate was reported to be 1–5 per cent.

5 CONCLUSIONS

Informality translates to precarious work. It is systematically created and structured to reduce the cost of production and maximize profits. While the nature and intensity of informality varies at various levels of the automobile value chain, the major gains always accrue to the larger enterprises at the top of the value chains. In case of contract workers in lead firms and Tier I enterprises, ambiguities in labour laws and large-scale violation of labour standards are the major factors behind the increasing pains of informality and precarious work.

Flexible labour relations may be necessary with flexible production coping with fluctuating demands. However, as observed, in lead and Tier I firms, there are no such flexibility requirements, as evidenced from the fact that in lead firms, there is no great variation in workforce size based on demand, and also there is no great fluctuation in workforce size in Tier I based on fluctuations in orders. To whatever extent flexibility requirements exist in certain Tier I and Tier II factories, they are artificially created by lead firms by engaging multiple suppliers to minimize supplier bargaining

power. Therefore, one of the core findings of the study is that engaging a huge proportion of contract workers is largely for saving labour costs by using them as cheap labour and by way of denying them benefits linked with length of service rather than for meeting production-related flexibility requirements.

Production flexibility could easily be handled through a small number of casual workers engaged intermittently. Severe fluctuations in demand are rare and could be quickly taken care of within the existing legal framework by hiring/firing casual workers, and the law provides space for this. If by management's admission, 70 per cent of the workforce could be formalized, the question that should be asked is why 84 per cent of India's manufacturing workforce is part of the informal sector (Mishra and Shankar 2013, 5).

To explain this, we must understand employer expectations. The study revealed that employers have the desire to engage low-wage labour in more enormous proportions and strenuous opposition to unions. Managements avoid collective bargaining to maximize profit. The contract labour system (casual labour system in Tier II) fulfils these expectations.

The conflict between expectations of employers and the existing system of labour laws incentivizes employers to adjust the structure of their enterprises. This involves dividing larger enterprises into smaller enterprises to escape various labour laws. By contrast, the necessities and expectations of workers are reflected in the miserable conditions of contract workers on the one hand, and the increasing tension in labour relations in India's automobile sector on the other.

In these situations, arguments centred on enforcing compliance with the labour laws are unlikely to succeed. The study demonstrated the willingness of employers to circumvent India's labour laws, and unwillingness or inability of the Indian state to intervene. The necessities, expectations and the power balance in labour relations are unlikely to change quickly. For worker's conditions to change, unions would need to have a significant impact on the power balance between labour and capital. Current union strategy, focusing on legal defences in the formal sector and India's labour law, is unlikely to achieve significant impact.

In such situations, the organized labour movement based on unity between permanent and contract workers emerges as the most important factor to guarantee some kind of job security and compliance with other labour standards for contract workers. This can potentially reduce the pains of informality and precarious work and even force employers to regularize informal workers to certain levels. It is in this light that we can

understand the emergence of a wave of struggles in the automobile industry starting in 2005, mainly on the issue of right to association and collective bargaining.

In case of Tier II enterprises, the informality is multidimensional. The enterprises are very small, and they lack proper infrastructural facilities and skills. Most importantly, they are locked at the lowest end of the value chain by the value chain dynamics. Factors that block the upward mobility of these enterprises include intense competition among Tier II suppliers created by buyer companies to keep the prices of parts down, making prices impervious to rise in production costs, and long delays in payments. As a result, these enterprises are unable to invest in infrastructure and skill development, leading to stagnation in the value chain. It thus becomes a vicious cycle. The state and buyers overlook injustices to workers to justify their own injustices meted out to these enterprises. The whole game ultimately benefits the larger firms at higher levels of value chain and, consequently, lead firms/brands. There is no law to compel buyers to make long-term formal contracts with Tier II suppliers and to periodically revise the prices of parts. There is no law to compel buyers to determine the prices of parts by transparently allocating amounts for various cost components, including the cost of labour (wages, decent working conditions and social security) along with profits. In such situations, without transforming these dynamics in favour of Tier II enterprises, this limits the possibility of improving working conditions for workers in any great way. Structurally, the collective bargaining power of labour is dismal in the Tier II level. The end result of the anarchy of production is a value chain which cannibalizes itself at its lower end with terrible consequences for the workforce.

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Precarious Flexibilities: Employment Relations in the Indian Information Technology Industry

Secki P. Jose

I INTRODUCTION

The growth of the Indian Information Technology (IT) industry over the past three decades thrust it into the spotlight in many ways. It is widely perceived that the industry is a crucial driver for economic growth within India's low- to middle-income developing economy, aiding both increases in productivity across sectors and raising individual wealth and incomes. The industry is also strategically important, owing to the fact that it earns significant foreign exchange which helps in ameliorating India's trade deficit. And lastly, the industry generates formal employment in relatively large numbers. While the extent of the industry's growth, profits and revenues are fairly well known, the nature of employment and the dynamics within its world of work are less clear and relatively understudied. This chapter focuses on the nature of the employment relationships within the

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Indian IT industry. This is done through an examination of two interrelated aspects. First, the chapter examines the structure of the extant labour laws and regulations that govern employment in the Indian IT industry and, second, in the empirical portion of the chapter, the actual employment conditions in the industry are examined by analysing qualitative empirical data. The latter portion focuses on issues around notions of employment flexibility, particularly issues around dismissals, mobility and attrition. These discussions are based on primary research data, drawn from fieldwork conducted amongst IT workers in Bengaluru (formerly known as Bangalore), Karnataka, during 2016 and 2017.

2 THE BACKGROUND OF THE INDIAN IT INDUSTRY

The past three decades have seen the rapid growth of the Indian IT industry so much so that the industry's employers' body, the National Association for Software and Services Companies (NASSCOM), claims that it is the largest private sector industry in terms of formal employment (MEITY 2017). NASSCOM estimated that the industry directly employed over 3.5 million workers in 2016, and further employed perhaps three to four times that number 'indirectly' (NASSCOM 2017). Indian IT workers can be broadly categorized into the industry's three main segments—the Business Process Outsourcing/Management (BPO or BPM), IT-enabled Services (ITeS or ITS) and the Software segment. All segments combined, IT workers constitute less than 1 per cent of the total Indian workforce (which is over 470 million); yet, it can be said that they have an outsized influence in the Indian economy. In 2016, the IT industry contributed to almost 10 per cent of India's total Gross Domestic Product (GDP) and is a sectoral outlier as far as growth rates are concerned, consistently seeing rates that were well above that of the wider economy. A large portion of the industry's revenues are derived from services exports and, in 2016, the IT industry alone contributed to almost 40 per cent of the total services exports from India (MEITY 2017). The rapid pace of the growth of the industry over time, in terms of both employment and exports can be seen more clearly in Table 8.1.

The scale of export revenues generated by the IT industry and its perceived importance as a source of employment generation for highly educated young workers has led governments, at both the central and federal state levels, to accord the industry a 'special' status; this gets

Table 8.1 Total employment and export revenues in the Indian IT industry (2000–2015)

	<i>Total employment (in thousands)</i>	<i>Annual exports (in USD billion)</i>
1995	50	0.63
2000	284	3.71
2005	1058	18.05
2010	2311	50.91
2015	3520	99.64

Sources: Employment–NASSCOM (various years); Exports–Heeks (2015)

Note: Employment in the IT industry includes BPO, ITeS and software segments

manifested in the diverse ways by which the state incentivizes the industry. Initially, the state’s approach towards the industry was characterized as a ‘light-touch’ one (Parthasarathy 2004; Chandrasekhar 2003) or one that ‘benignly’ neglected some regulatory aspects (Kattuman and Iyer 2001). But it has been subsequently shown that such notions are misplaced and that the Indian state has indeed played a significant role in the growth of the industry (Balakrishnan 2006; D’Costa 2011). In its initial years, central and state governments provided extensive support to the IT sector through incentives and special policies—related to land, taxation, electricity, transportation, telecom infrastructure and export zones—all of which have been integral in easing any potential bottlenecks (D’Costa 2011).

Direct incentives apart, the state also played a significant role in shaping the labour market in order to cater to the employment-related requirements of the industry (Balakrishnan 2006). This was done not only through the introduction of new short-term courses and degrees (e.g. the Masters in Computer Application degree) and initiatives for skill development, but also through the expansion of private sector education, especially the liberalisation of technical and engineering education. The rapid expansion of engineering education saw annual countrywide intake increasing from about 200,000 engineering students in the year 2000 to around 1.5 million by 2015 (AICTE 2017). Though supporting the expeditious growth of the IT industry was ostensibly a key factor for this expansion, this is now perceived to have resulted in an oversupply of both engineering colleges and graduates, as well as a general decline in the overall standards and quality of engineering education (Upreti 2018).

It would be inaccurate to underplay a variety of other factors, both internal and external, that contributed to the development of the Indian IT industry. The entrepreneurial streak of the early Indian IT industry allowed it to utilize many of the unique advantages that India enjoyed at the time. The principal advantage amongst them, driving much of the global offshoring towards India, was the relatively low cost of labour (or the ‘labour arbitrage’) that all types of organizations sought to exploit (Arora et al. 2001; Flecker 2007; Taylor and Bain 2007). These cost-related benefits, complemented with the relatively large supply of highly educated workers who were linguistically compatible with English-speaking countries, provided an important set of ‘pull’ factors for the industry’s growth in India (Arora et al. 2001; Noronha and D’Cruz 2009, 43). However, several local ‘push’ factors in developed countries too contributed to the drive for offshoring—these include the economic slow-downs in the latter half of the 1990s, economic crises such as the dot-com bubble, the Y2K problem and difficulties faced by firms in their respective local labour markets (Taylor and Bain 2004).

The role of the Indian state as a ‘facilitator’ or ‘catalyst’ and the circumstances or factors under which the sector developed have been extensively explored (*cf.* Heeks 1996; Joseph and Harilal 2001). However, aspects of work and employment that shaped the industry are relatively under-researched (Penfold 2009); inquiries into which, particularly regarding employment regulation, present a more complicated picture (Noronha and D’Cruz 2009, 45). It is tempting to speculate about the reasons for the general lack of clarity about the extent and form of labour regulation in the Indian IT industry. The largely white-collar nature of IT work meant that occupational hazards that workers faced in the primary and secondary sectors (such as various Occupational Safety and Health issues) were largely absent in the IT industry. Further, the sector largely comprised educated workers receiving relatively higher salaries and was understood to deploy HR practices in line with international standards (Noronha and D’Cruz 2006; Thite and Russell 2009). These appear to have led to a general perception that this industry did not require as much regulatory intervention as other industries within the Indian economy. While it is not within the scope of this chapter to comprehensively discuss the historical lack of focus on the labour regulation-related aspects of the Indian IT industry, it is pertinent to highlight this shortcoming, for, this was an industry whose business model was almost entirely contingent on labour and therefore as, if not more, labour intensive than others.

3 THE INDIAN IT INDUSTRY AND LABOUR REGULATION

The previous section had indicated a paucity of systematic inquiries into the nature and structure of employment relations in the Indian IT industry, resulting in a rather sparse understanding of how labour is regulated in it. Given that this industry largely comprises of formal, registered enterprises providing formal and regular employment (Batt et al. 2005; Taylor et al. 2008), a majority of its employment then comes under the direct purview of central and state labour legislations. Yet, there is a widespread notion that the sector is somehow ‘exceptional’, rendering a general state of confusion about the extent and applicability of labour laws (Noronha and D’Cruz 2009, 44–5). While managements have traditionally sought to obfuscate the nature and extent of their control over work, several other concrete factors too have contributed to a lack of clarity in the Indian IT sector. The scope and extent of regulations are complicated by the fact that labour, in India, is a ‘concurrent’ topic—allowing individual state/federal governments some space to formulate their own individualised approaches towards industries. Federal states are then actively seen to be shaping and re-shaping their strategies in labour and employment-related matters as per their requirements. Capitalizing on such flexibilities, the IT sector has often been accorded several crucial labour-related exemptions (Noronha and D’Cruz 2016; Sarkar and Mehta 2010). Examining these regulatory frameworks, and the details therein, become critical because they provide the context to understand everyday managerial strategies and employment practices within the IT industry.

At the highest level, the Indian Constitution guarantees some rights to the workers of India. Under its ‘Rights to Freedom’ section, the Constitution guarantees the workers the right to form their own associations and unions, as well as the right to practise any profession, occupation, trade or business (Article 19). Further, it also directs the state to ensure that the workers receive a living wage and equal pay for equal work, (Articles 39, 41, 43). This responsibility is divided amongst the central and local governments. While this provides some degree of flexibility to the states, it has also led to a proliferation of substantial regional variation, often leading to criticisms about their overt complexity and multitudinous case-law interpretations (Debroy and Kaushik 2005). Such criticisms aside, the concurrent nature of labour laws mandates a location-sensitive approach when studying aspects of work in India. Given that the research was carried out in the city of Bengaluru, in the South Indian State of Karnataka, subsequent discussions on regulations in the IT industry are mostly limited to this state.

3.1 *The IT Industry in Karnataka*

Work in the IT industry in Karnataka is governed by a total of 27 labour laws, of which 23 are central and 4 are federal state laws. The main generic law that governs employment in IT firms is one specific to the federal state: the Karnataka Shops and Commercial Establishments (SCE) Act, 1961 (Noronha and D’Cruz 2009, 44; Penfold 2009). All Indian IT firms register themselves under this Act and are governed by the rules and regulations laid out therein. At the outset, it is probably debatable whether this Act is the appropriate one for the IT industry: the SCE Act had originally been formulated keeping in mind general commerce-related establishments such as shops, hotels, restaurants, commerce-related firms (such as banks) and other places of “public amusement or entertainment”. But crucially, it is a clause that allows for the inclusion of establishments that ‘engaged in office work’, that paves the way for relatively newer industries such as the IT industry to register under it. As a result, even though the registrations are legitimate, it is important to note that the Act was never formulated keeping such work or working conditions in mind.¹ Second, a 2012 ruling by the Bombay High Court (*Reliable Software Systems Pvt. Ltd. vs. ESI Regional Office, Marol*) has indicated the possibility that IT firms could be classified as ‘factories’, as the software development process could be viewed as being akin to a manufacturing process (Gopalakrishnan and Shroff 2012). However, registration under the Factories Act, 1948, would entail the implementation of far more rigorous standards regarding working conditions, and by registering themselves under the SCE Act, 1961, IT firms are able to spare themselves of the sophisticated regulations entailed in the former (Raghavan and Gupta 2012).

The Karnataka SCE Act, 1961, covers a range of aspects related to working conditions but is far less specific when compared to the Factories Act, 1948. Provisions covered include working hours, overtime, breaks, holidays, the rules around layoff (being used here as equivalent to retrenchment) of workers, types of misconduct, appeals procedures, inspections and compliances, among others. In a 2001 amendment to the Karnataka SCE Act, the IT industry was specifically exempted from some of the rules pertaining to work timings, leaves and weekly holidays. As per the amendment, the IT

¹This was especially true in 1961 when the Karnataka Shops and Commercial Establishments (SCE) Act was legislated, and the IT industry and IT work were almost non-existent.

industry (and also the Biotechnology or BT industry) was granted exemption on the grounds that IT work involves ‘a lot of mental work’, making it difficult to impose set timings for such work. This exemption, however, was crucial, as it afforded the IT firms the flexibility to run their operations 24×7, throughout the year, including weekends. While the reasoning behind the exemption is questionable, there is little doubt that this was a necessary step for the industry to function so that they could provide international services. The global nature of the Indian IT industry, where it caters to clients located in various parts of the world, operating in different time zones, means that it requires flexibility in terms of working hours as well as days (though, why the BT industry requires such exemptions is less clear). Another key labour-related exemption specifically granted to the IT industry in Karnataka is from the Industrial Employment (Standing Orders) Act, 1946—an exemption that has been getting extended through political interventions every few years since 1999 (Noronha and D’Cruz 2016). This exemption gave IT firms the ability to avoid several crucial procedures that would have required them to formally and publicly state the rules governing the workplace, and also helped them avoid any dealings with trade unions that are required to be a part of the approval process of the said rules.

Such direct exemptions apart, there is also some lack of clarity around the extent of applicability and enforcement of labour laws within designated export processing zones such as Special Economic Zones (SEZs), and its sector-specific variant, the Software Technology Parks of India (STPI). Most IT firms choose to locate themselves within such SEZs in order to benefit from the infrastructural and financial incentives that are provided to firms located there. More importantly, from a labour perspective, these zones are usually designated as ‘public utilities’, as defined in the Industrial Disputes (ID) Act, 1947 (Mazumdar 2001; Murayama and Yokota 2009). Firms that fall under this definition have different and more stringent procedures and formalities, including going through compulsory conciliation procedures involving boards for conciliation, courts of inquiry, labour courts and tribunals before any industrial action can commence. While the ID Act, 1947, is applicable to the IT industry, the overlaps with SEZ-related regulations and enforcement add uncertainty around the applicability of labour laws, and this only contributes to a general but widely held impression that the IT sector is devoid of or exempt from labour regulation. Overall, when examining the possible avenues for legal redressal for IT workers, Penfold (2009, 95) opines that “the current enforcement regime can offer little realistic hope to employees seeking to remedy their workplace problems”. As a result, it is entirely possible that

the perception of shortcomings in both the applicability and in the enforcement of labour laws have contributed to workers generally being unreceptive to ideas of collective action (noted by Sandhu 2006; Sarkar 2008; Taylor and Bain 2008).

Such questions of regulatory applicability are only the first part of the issue, for, there is also the gulf that exists between the labour regulations and their enforcement, and this has been widening over the years (Bhattacharjea 2006; Shyam Sundar 2010). Other prominent reasons attributed to the workers' lack of interest in collective action include the internalization of notions of 'professionalism', reported prominently amongst call centre workers (Noronha and D'Cruz 2009), and the general perception that such jobs have a privileged position vis-à-vis the rest of the labour market (Poster 2007). The lack of collectivization and unionization cannot be taken as an indication that workers do not face any issues at work. On the contrary, Taylor and Bain (2008) record numerous grievances, most of which were not addressed by IT firms. Management strategies have also actively sought to discourage collectivization in these workplaces, and the relative 'newness' of these industries also makes it much more difficult to form workers' organizations, as they need to be built up from a scratch (Doellgast and Pannini 2015).

4 METHOD OF STUDY

The employment-related rights of Indian IT workers have been shown to be somewhat entangled in a web of uncertainties arising out of factors ranging from straightforward exemptions, confusions regarding the scope and extent of labour regulation, as well as various normative strategies by HR departments and managers. In order to gain a ground-level understanding of the effects of these issues, field research was conducted in 2016–17. This empirical research involved semi-structured qualitative interviews with workers, managers, trade unions, and state government officials in Bengaluru, Karnataka. Karnataka is the single largest contributor to the Indian IT industry, accounting for nearly one-third of the entire industry in terms of both revenue and employment (NASSCOM 2014), with much of it concentrated in the city of Bengaluru.

A total of 54 interviews were conducted. Different interview schedules were created for each of the four main groups of interviewees (workers, unions, managers and government officials). For the purposes of the study, IT firms were classified as small (<100 employees), medium (100–1000)

and large (>1000). Formal requests for access were made directly to IT firms, including several IT majors with operations in Bengaluru; but these were either declined or ignored. The participants were then recruited through snowball sampling. The interviews were conducted in restaurants, coffee shops or the firms' in-house canteens. When workers were unable to appear personally, interviews were conducted via telephone or videoconference. Both the snowball sampling method and the informal interview locations allowed the participants to be more candid in their responses and discuss their work processes and issues in fair detail. Further, the IT workers were purposively sampled for ITS workers, as ITS work was the focus of the study. The interviews have been subsequently anonymized and pseudonyms have been used throughout. The data was analysed thematically and combined with a detailed examination of the relevant labour laws and regulations. The analysis was supplemented with information from other secondary sources such as news media reports and other publicly available reports by IT companies.

The research itself had been conceptualized and built around a theoretical framework based on Edwards' (1979) ideas of managerial controls. Within this framework, managerial strategies that look to control the work are seen to be of two broad types—'Technical' controls, which are related to the pace and direction of the work and 'Bureaucratic' controls, which are related to the rules and regulations within the workplace (such as those related to promotions, rewards, punishments, etc). While this framework has been critiqued and extended subsequently, this basic conceptualization is useful to provide a solid basis for the analysis of a wide range of managerial strategies (Callaghan and Thompson 2001). Broadly speaking, such an approach gives centrality to the labour process (which focuses on how the work is actually carried out). Such an analysis is located within a broader literature often referred to as Labour Process Theory (LPT) or Labour Process Analysis (LPA), and it relies on some of its concepts. The study extensively documented the daily work routines of ITS workers and how they go about doing their work. It examined how managements attempt to extend control over the work and workers. The study also attempted to extend these ideas and build connections between managerial control strategies and the regulatory institutions that govern aspects of work and employment.

5 THE EMPLOYMENT CONTRACT IN IT FIRMS

Almost all the workers who were interviewed as part of the study confirmed that their employment relationship was a formal, permanent one, and that this had been the case for most of their careers. Several respondents also observed that they were aware that some of their colleagues were working on short-term employment, as contract workers. However, the respondents were unsure of the scale of the practice, both within their own firm and in the industry. One of the respondents, who had worked previously as a contract worker, observed that workers on such contracts were paid around one-half to one-third of the salary of a regular employee, even though they did the same work:

Such workers would get Rs 7000 per month as salary. At the same time, they would give the regular employees around 2.5-3 [*lakhs*] per year [*or around Rs 20,000 per month*]. That is a huge difference—almost 3 to 4 times. (Partha, 27, Senior Network Integration Engineer, Large IT firm)

Interviews with managers shed more light on such arrangements, though the extent of contractualization appeared to vary from firm to firm. One HR manager, in a large IT firm, said that around 20 per cent of their workforce are contract workers (interview with Rahul, 28, HR Manager, Large IT firm). This was attributed to the common industry-wide problem of high attrition rates. Owing to this, managements were not keen to spend time and resources going through the full and complete recruitment cycle for certain work categories where there was high employee turnover. Apart from the wage differential between the two types of workers, contract workers were also often not eligible for several benefits (such as Provident Fund, gratuity, Employee Stock Ownership Plans, as well as access to some common facilities) that regular workers in the same company working in similar job profiles received (interview with Partha, 27, Senior Network Integration Engineer, Large IT firm).

Though there appeared to be a significant number of contract workers in the IT industry, arriving at any sort of uniform or generalized picture about them presented some key difficulties. There was the element of differentiation within the contract IT workers themselves. It is fairly well known that contractors are sometimes used to expressly address a skill gap in the company. In such instances, when the firm lacks in-house expertise, expert contractors are hired (Barley and Kunda 2004). Such contractors

were paid high wages and could dictate their working conditions, and most firms would acquiesce to their demands. User Experience/User Interface (UX/UI) designers or SAP consultants were given as examples of categories where such hiring is prevalent (interview with Balakrishnan, 45, Chief Technology Officer, Small IT firm). Such variations in the conditions of work among contract workers makes it difficult to generalize about the nature of contractual labour in the industry. By implication, it is also difficult to identify the extent to which contractual work is used in IT firms. However, it needs to be emphasized that the number of contract workers utilized for generic day-to-day work appears to far exceed those used for short-term niche assignments.

6 MOBILITY AND ATTRITION IN THE IT INDUSTRY

A common aspect among many of the interviewed ITS workers was that they had changed jobs recently (i.e. within the last one year) and were in varying states of transition. It is well known that workers in the Indian IT industry are highly ‘mobile’, leading to high annual attrition rates, and this is known to create major challenges for managements and HR departments (Budhwar et al. 2009; Sengupta and Gupta 2012). In fact, high rates of mobility and attrition of the IT workforce have been a regular feature since the early days of the industry and is an issue that continues to plague firms across the spectrum—ranging from small and mid-sized firms to, perhaps more counter-intuitively, large and prestigious IT firms. An examination of the annual financial reports of some of the largest and best-known Indian IT firms reveals consistently high attrition rates. Table 8.2 shows that most of the large Indian IT firms are seen to be grappling with double-digit annual attrition rates. And in smaller IT firms, the attrition rates tend to be much higher, sometimes as high as 50 per cent annually (Himanshu, 58, Senior Project Manager, Medium-sized IT firm).

These attrition figures must be dealt with caution, particularly if they are to be taken as a proxy for workers’ mobility. Attrition measures the number of workers who left a firm in any given year. This, then, also includes workers who may have been dismissed or laid off from their jobs. And Indian IT firms are known to carry out annual or biannual rounds of workforce reduction based on performance-related evaluation procedures (e.g. see, Phadnis and Ayyar 2017). Thus, the attrition numbers would reflect two types of attrition: voluntary attrition, through voluntary resignations, reflecting the mobility of the workers; and second, involuntary

Table 8.2 Attrition rates in the top four Indian IT firms (by current size of employment) for 2000–2015 (%)

	<i>TCS</i>	<i>Infosys</i>	<i>Wipro</i>	<i>HCL</i>
2000	–	–	–	–
2005	8.06	8.69	–	20.4
2010	13.34	13.02	13.6	15.7
2011	15.86	15.67	24.1	16.5
2012	12.75	23.1	17.5	–
2013	11.63	28.03	13.7	–
2014	12.29	18.64	15.4	–
2015	14.99	18.9	–	–

Source: Author, compiled from respective company annual reports

Note: Years for which data are not available are marked by ‘–’. *TCS* Tata Consultancy Services; *HCL* Hindustan Computers Limited

attrition, involving dismissals and layoffs. The two being completely different processes, overall attrition statistics would then not capture the voluntary mobility of employees. Voluntary attrition has, however, been a central concern of the Indian IT industry for a fairly long time, with senior management and industry leaders often identifying high attrition and turnover rates as a major challenge (Budhwar et al. 2009; Deery et al. 2013). Within a labour process-based approach, it is argued that the ability of workers to be mobile constitutes a significant power that they possess (Smith 2006). It is possible to understand this ‘mobility power’ of the workers as a second indeterminacy of labour that managements have to contend with. The first indeterminacy being how to extract labour (or actual work) from the labour power (or the potential to do work) possessed by the workers. The second indeterminacy that they grapple with is how to retain workers—as workers can legitimately change firms by exerting their ‘mobility power’ within capitalist markets (ibid.). Stemming from such a logic, the mobility of workers in the IT industry can be viewed as an important form of recalcitrance/resistance by them, which helps them in improving their pay and working conditions over time (Bain and Taylor 2000; Mulholland 2002).

From the perspective of the firm, the attrition of highly skilled and trained workers poses a major challenge. Such workers may not be easily replaceable as they may have built up a large amount of tacit knowledge over time. Managements, therefore, employ a variety of strategies to

ensure that the movement of workers occurs with minimum disruption. Interviews with managers revealed that it is routine practice to plan ahead and factor in attrition. In the case of one medium-sized IT firm, the company's expectation of annual attrition was pegged at 20–25 per cent. The major strategy that the firm deployed to address this was to keep a set of workers as a buffer or on 'bench' (Himanshu, 58, Senior Project Manager, Medium-sized IT firm). This is a fairly common practice, resulting in most Indian IT firms typically having more employees on their payrolls than they actually deploy, giving rise to the industry metric of 'utilization rate' (usually around 80 per cent for large Indian IT firms based on their annual reports, though this has been increasing in recent years). The buffer or bench workers primarily reduce the possible risks posed by attrition but can also sometimes be deployed if the firm secures fresh projects, thus somewhat constituting an 'internal or private reserve army of labour'. But even so, these buffer workers still require training and familiarization with the work and workflows before they can fully move into a new position. That this training and transfer of knowledge takes place comprehensively and smoothly is crucial to the firms' operations, and firms ensure this through a combination of in-house and, later, on-the-job training by an exiting worker. European firms are often known to be willing to generously remunerate exiting IT workers in exchange for the assurance that they would complete a thorough training of their replacements (Flecker and Meil 2010). However, the ubiquity of attrition in India does not provide IT firms with such options, making it a regular site for conflict. Exiting workers are usually required to train their replacements as per the managements' instructions and ensure that their replacements are fully equipped to carry out their work. It is understandable that exiting workers may not be keen on doing so and so it is not unusual for exiting workers to be coerced, typically while serving their notice periods, by managements or HR personnel who are known to sometimes threaten the withholding of final wage settlements, refuse experience letters or give threats of providing negative recommendations to future employers (interview with General Secretary, ITEC, workers' association).

The resignation and movement of workers constitutes only one aspect of attrition—the voluntary one, where workers are genuinely exercising their 'mobility power'. However, as pointed out earlier, not all workers who move out of a firm in any given year are doing so out of their own volition. The remaining workers who contribute to the attrition statistics are the ones who have been fired, dismissed or, as is common in the industry, pressurized into submitting resignations. These constitute a firm's

involuntary attrition. During the period of the field research, this issue rose to prominence in the form of mass layoffs. News media, particularly in the first half of 2017, was inundated with reports of IT firms laying off workers in large numbers. Though the actual extent of these layoffs were contested by employers, it was clear that layoffs were happening to some degree.² The question of dismissal and layoffs, however, is not new and has long been a point of conflict between workers and IT firms, flaring up to prominence intermittently during periods of crisis within individual firms, or during periods of wider economic crisis and stagnation.

Dismissals, layoffs and the rules around them have a very strong political and regulatory dimension (Emmenegger 2014; Jacoby 1998; Smith 2010). Here, it can be argued that Indian IT firms benefit from the relatively lenient regulations around retrenchments and layoffs in the Karnataka SCE Act, 1961—when compared to the more stringent Factories Act, 1948—as well as the confusions surrounding the extent of applicability of labour laws discussed earlier in this chapter. IT firms can be seen as adopting something akin to an ‘institutional avoidance’ strategy (Doellgast et al. 2009; Morgan and Hauptmeier 2014), which subsequently provides them with greater flexibility in adjusting the size of their workforce and frees them from the otherwise restrictive constraints and requirements around dismissals. The risk of sudden dismissals and terminations was identified by many IT workers as the biggest latent risk and insecurity that they faced as workers in the industry. This was a recurrent theme in the interviews, with workers reporting very high awareness levels about news of layoffs within IT firms.

The notice period linked to dismissals and separation was highlighted as a major point of contention. Several interviewed workers felt that while managements use the three-month notice period as a means to reduce the mobility of workers, the contractual agreements were often not honoured in the case of dismissals or layoffs. One worker pointed out that though firms would sometimes give an option of compensation or severance pay for the contractual three-month notice period, it would be undermined as firms would pay only the ‘basic’ component:

For example, if my salary is Rs 50,000, in that my basic is around 18,000 and the rest is allowances, variable pay and so on. So when they lay off

²The labour department in Telangana, a neighbouring South Indian State, summoned officials of IT firms, in 2017, to clarify about the extent of the layoffs (Vaitheesvaran 2017).

people, they will only pay the basic, which is not even close to the actual salary. Also, the firm will take around 45 days after you have left the firm to close your account and give your settlements. They are paying some money but it really won't help the employees. If they are going to fire people, they should at least give three-months' notice so that he can search for a job outside. (Interview with Thomas, 26, Senior Analyst—Networks, Large IT firm)

The three-month long notice period of Indian IT firms is highlighted here, for it is unusual. The Karnataka SCE Act, 1961 (s39), only requires a one-month notice period, but Indian IT firms prefer to have a longer one. Inconsistencies in the way IT firms deal with dismissals and resignations were identified by several workers as a bone of contention. These issues have come to the fore with increasing frequency in recent years as the Indian IT industry has faced several challenges, much of which was linked to changes in global/external markets. Studies indicate that Indian IT firms were significantly impacted by the global economic recession following the 2008 financial crisis (Taylor et al. 2014; Roy et al. 2017). Even after accounting for base effects, Fig. 8.1 illustrates how employment

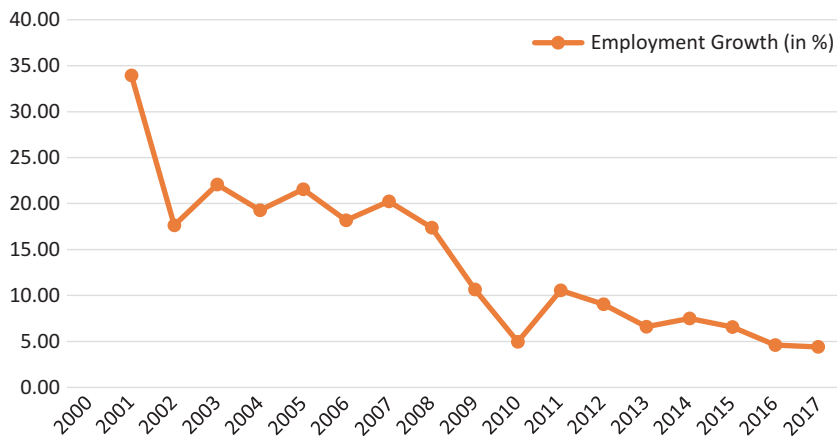


Fig. 8.1 Rate of growth of employment in the Indian IT industry (2000–2017). Source: Author, compiled from NASSCOM Annual Reports (various years). Note: There have been several definitional changes by the employer’s body, NASSCOM, over the years to the way the IT industry’s employment data is classified. The last of these was in 2014 when the IT employment figures began to include workers in the e-commerce industry

growth in the industry has significantly slowed in recent years. This has meant that in the period since, marked by decline and stagnation in employment, overall hiring has slowed down significantly, in terms of both fresh graduates and lateral hires.

The tightening of the local labour market, competition from other geographies, coupled with a move to improve efficiency and productivity in the sector—through the use of technologies such as cloud computing, artificial intelligence, machine learning, to name a few—have significantly impacted the IT worker, particularly in terms of a contraction in job openings, thus affecting her/his mobility power. This decline in the workers' mobility power has resulted in increasing instances of contestations between workers and IT firms, as both reported by interviewees and seen in the wider media reportage on the industry. The layoffs since 2015 have been perceptibly distinct as workers have resorted to a variety of public methods to resist dismissals and layoffs. For example, workers began recording conversations with HR personnel and releasing them online, and one such recording—where the HR personnel was threatening the employee to tender a 'voluntary' resignation or face termination within 24 hours—even prompted a public apology from the CEO of a large and prestigious Indian IT firm (NDTV 2017). Increasingly, IT workers are speaking publicly in the media, and in some cases, pursuing legal cases of 'unfair dismissal' against their employers (Ganesh and Simhan 2017).

7 COLLECTIVIZATION AND UNIONIZATION

In general, very little is known about collectivization or attempts to organize in offshored industries, including the Indian IT sector (Taylor et al. 2008). Earlier studies have noted that Indian IT workers have exhibited a general reluctance to form or join unions (Sandhu 2006; Noronha and D'Cruz 2009, 111). Attempts at union formation in this sector in the 2000s—most notably, the Union of IT and ITes Employees-Professional (or UNITES-PRO, an affiliate of the international union, UNI)—had gained little traction and saw subsequent decline (D'Cruz and Noronha 2013). It has been shown that thus far the principal means through which IT workers had been resisting poor working conditions in IT firms was by exercising their mobility power and by moving out of a firm altogether

when they were dissatisfied with it or wanted to improve some aspect of their work and employment conditions. However, a combination of factors has now meant that the workers are now forced to look for other alternative strategies. It is perhaps in recognition of the limitations of individualized strategies to counter the actions of firms that workers, in recent years, appear to be gravitating towards more collectivized forms of resistance. Collective action, a hitherto absent phenomenon in the sector, has organically emerged, or, at the least, there appears to be less resistance among the workers to the idea of unionization. Evidence of this lies in the formation of newer associations and trade unions such as the Karnataka State IT-ITeS Employees Union (KITU) and the Forum for IT Employees (FITE). These unions explicitly address issues faced by workers in the sector—such as unfair dismissals, long working hours, unpaid overtime, women’s safety, contractualization and declining or stagnating wages, among others—in a more systematic and collective manner.

KITU, registered in Karnataka and affiliated to the central union, the Centre of Indian Trade Unions (CITU), has been focusing on and liaising with the state labour department on issues ranging from unfair dismissals, unpaid wages and safety of women employees working late night shifts to safeguards for fresh graduates against fly-by-night operators in the sector. This newly formed union has overseen critical interventions in preventing mass layoffs, which led to a dramatic increase in their membership recently:

The government of Uttarakhand was offering some new incentives to attract businesses and one IT firm decided to move their entire operations from Bengaluru to Dehradun. They offered the employees with the option to move to Dehradun right away or leave the firm. Many employees had been working with the firm for a long time and were not in a position to relocate. Almost all the employees joined our union, then we raised a dispute and have temporarily stayed this move by the firm. (Interview with General Secretary, KITU, Trade Union)

Around the same time, another trade union was registered in Tamil Nadu (the state neighbouring Karnataka). Its members too identified the issue of dismissals and layoffs as central to their formation and activities. For, this was an issue which “affects all workers, even those who have been performing well in their work” (interview with FITE members, Trade Union):

We came up with the idea of forming an association during the mass layoffs that took place by Tata Consultancy Services (in 2015). At that time, our membership was at its peak. Over a short period of time, we saw more than a thousand members joining us, and getting registered with us. (Interview with FITE representatives, Trade Union—Bengaluru branch)

These organizations are, in many ways, still in their nascent stages. The slowdown in the growth of the IT sector and an attendant stagnation in employment opportunities appear to have triggered concerns of job security among the IT workers, providing a springboard for wider collectivization and unionization. Yet, previous experiences with union formation in the sector indicate that building collective organizations among these types of workers and occupations has been challenging. A representative of the beleaguered union, UNITES, pointed out that worker interest in union participation was short lived and seldom extended beyond the resolution of individual issues (interview with acting-general secretary, UNITES, workers' union). While the effectiveness and contributions of the new unions will need to be observed in the coming years, their formation and increases in membership underline important underlying conflicts and contestations within the IT industry.

8 CONCLUSION

The precarious nature of the employment relationships in the Indian IT sector is by no means a new phenomenon. The inherent tenuousness and insecurity that characterizes its employment has been exhibited in numerous instances of mass layoffs, sudden dismissals and regular rounds of redundancies over the years. It has been argued here that many of the industry's practices are a direct result of the way the regulatory groundwork was laid in its initial years. These ranged from direct exemptions from the applicable labour laws to the manner in which the industry categorized itself. However, many of the flexibilities accorded to the industry are tenuous, often granted with questionable reasoning and having a fragile existence because of the need for intermittent extensions by the political dispensation of the day.

Most of the industry's early years—spanning the 1990s and the 2000s—were marked by both high growth and high attrition. But, a slowdown in the growth of the industry has led to a tightening of the jobs market. As employers resort to varied methods to improve productivity, IT workers

experience fresh and renewed levels of precariousness. The reduction in the workers' mobility power has increasingly turned layoffs and dismissals into an arena for contestation, where, not only are workers challenging managements in an open and direct manner but also forming associations and, more recently, formal trade unions. The stabilization of growth rates and employment along with the emergence of formal trade union activity in the sector—a sector hitherto perceived to be averse to collectivization—signals the approach of a new and perhaps maturing stage for employment relations in the Indian IT industry.

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Representations of Insecurities and the Quest for Voice Among Information Technology Personnel

Jerome Joseph

I INTRODUCTION

The quest for voice is a fundamental human yearning in social, political as well as workplace settings, and yet in concrete contexts, there is a dehumanizing stifling of the freedom to speak and the right to be heard, more so if it is through collectivization. And yet history testifies to the fact that in spite of attempts to suppress and repress the right to form associations, collective voice breaks through ultimately, whatever the constraints and restraints. Recent happenings in the information technology firms have drawn attention to the struggle for voice in the context of actions taken by employers in this sector. Right to be heard is inextricably linked to the right to mobilize, right to organize, right to associate, right to be recognized and the right to represent, given the legal and constitutional provisions of the ‘voice’ ecosystem in the Indian workplace context.

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Understanding the constructions and constraints involved in the exercise of this Constitutional and statutory employee right to associate is the subject matter of this chapter. The objective of this exploration is to decipher the trends underlying IT employee efforts to unionize in the context of employer hostility towards unionization.

2 REPRESENTATIONS OF VOICE IN SELECT STUDIES

Research studies of the past 100 years show that mobilization and collectivization of voice has always been resisted by employers in spite of Constitutional and statutory provisions and international conventions legitimizing the right to form associations. Perlman (1928), commenting on labour mobilization of his times, put forward the conclusion that collective voice was seen even then as necessary ‘social instruments’ for ‘self-defence’ in an environment hostile to wage labour and even more inimical to organized wage labour. Simmel (1955, 90) suggested that even though employers back then saw trade unions as potential instigators of long-duration agitations, they still tolerated them as a buffer against localized confrontations and rampant ‘unorganized’ strike proneness. By the 1960s, Tannenbaum (1964) pointed towards the growing friction in employer-employee relations in the wake of the forward march of the free market ideology and the consequent social anomie among the working classes.

Collective voice continued to be of interest for conceptualization efforts in the 1970s as reflected in the study of labour organizations by Mark van de Vall (1970) in which he proposed that there were three approaches to voice in employment relations—the democratic (where every member has voice), the oligarchic (where voice is for the few, of the few and by the few) and the ‘polyarchic’ (where between the controlling voices and the controlled voiceless, there are vocal voices who tend to balance the power dynamics between the power centres and the peripheries). Ramaswamy (1977, 6) also highlighted the critical importance of membership involvement for the democratic functioning of trade unions.

Almost a century later since Perlman referred to earlier, Gill and Meyer (2013), based on conclusions drawn from a broad review of studies, concluded that there is continued evidence of managerial hostility towards unionization. For Patrias (2015), the narrative has shifted from collectivized voice to individualized voice with collectivization being seen as contraindicated with positive employment relations. Collective action also has become more difficult as observed in a study in South Africa by Runciman (2016), given the structural insecurity in employment relations with very

few permanent workers and a large proportion of non-permanent workers. Caruso (2015) has again pointed towards the insecurity which envelops the world of work and attributes this to the influence of international capital and its interests.

The view that multiple unionisms dissipate the potency of voice was noted by Webb and Webb (1898). However, Ramaswamy (1977, 116) countered this argument and gave an alternative interpretation, suggesting that union rivalries enhance union voice. Joseph (1986) has argued that the dynamics created by the relationship of politics and organized labour is not divisive but acts as a catalyst for higher levels of worker involvement not only on workplace issues but also on larger social causes.

All said and done, apart from employer hostility, union mobilizers vying for the attention of workers have to face rank and file. Mass apathy not only erodes the potency of unionized voice but also creates the conditions for oligarchies to thrive in employment relations. Lipset et al. (1956) drew attention to the twin problem of oligarchy and mass apathy in trade union functioning. During the last two decades, mass apathy has become synonymous with declining union membership, and according to Kelly (2015), lower union membership amounts to lower finances and weakening of unionized voice. It is this aspect of membership behaviour which led Allen (1954) to characterize unions as ‘instrumental collectivities’ where members join unions merely for individual self-interest. Mason and Bain (1993) have made a distinction between the ‘structuralist’ view linking union voice to the vagaries of business cycles and an alternative ‘interventionist’ view in which employee voice is a function of union strength.

From the origins of unionism, research suggests that left-leaning union efforts to nurture class-conscious cadres lead to a more sustainable voice for the working classes (Davis 1941), considering that only when individual grievances coalesce into class consciousness that formation of combinations materialize (Marx 1969, 43). Lenin (1978, 93) suggested that there are two variants of worker consciousness—‘trade union consciousness’ focusing on individual self-interest of members and ‘social democratic consciousness’ oriented towards exploring alternative emancipatory socio-economic formations. According to Burawoy (1982, 15), the labour process has two distinguishable elements—the relational and the practical aspects. The relations of production refer to the method of expropriation of surplus, and the practical aspect refers to activities which transform raw materials into useful things. Hyman (1984), commenting on the question of antagonistic expressions of voice, has said that the root cause is the

profit motive of enterprise activities which also goes hand in hand with indifference to larger social concerns.

However, irrespective of the mode of consciousness, the mobilization of voice for the working masses is resisted by the forces of neoliberalism leading to heightened work insecurity (Hardy 2017, 10). Intimidatory tactics have always been employed by capital to prevent collectivization, “fear is produced by the insecurity, change and unpredictability in the working society” (Pynnönen and Takala 2018, 167). Besides this trend, Grady (2017, 275) expresses concern over the disconcerting ‘social’ acceptance of this grim reality of work and wage insecurity amidst a passive acceptance of the profit-maximizing nature of capital.

These insights have a bearing on the mobilization of voice. Trade union ‘consciousness’ articulated representative voice in a scenario where work and wage insecurity are not just a management practice with organizational legitimization but part of the neoliberal exploitative frame of reference, can only achieve marginally better terms for labour because of its analytical and practical limitations. Mere collections of individual employees driven by the limited objective of redressing individual employment-related grievances may not even serve the purpose of minimal impetus for concerted mobilization, given the contours of employer power at the point of engagement. Even the much-touted inculcation of ‘professional identity’ of employees (Noronha and D’Cruz 2009) engineered through ‘neo-HRM’ regimens in this sector is but evidence of a ‘false consciousness’ which gravitates towards seeing even minimal combination to redress grievances as contraindicated with the managerial expectations surrounding the employer-induced construction of this illusory ‘professional identity’. Marcuse (1964, 5) would see the concept of professional identity as a form of ‘false consciousness’, and according to him, just because such an identity is internalized would not ‘render it less irrational or less reprehensible’ because such constructs are but means utilized to transition from the ‘scientific conquest of nature’ to the ‘scientific’ domination of working persons.

Collective voice therefore becomes anathema for the subjugated consciousness produced by the prescriptions of the ‘professional identity’-submerged ‘neo-HR’ behavioural code. A more sustainable mobilization is a possibility only if the collectivization of voice based on trade union consciousness expands its horizons towards developing an analytically liberating ‘social democratic consciousness’ by seeking not just better terms for the employed and the unemployed but also by striving for the creation of a better society free of exploitative and inequitable structures and processes.

Neo-HR purveyors in the IT sector have attempted to mould the employees into the ‘professional identity’ mode of consciousness as a basis to pursue their agenda through behavioural control. Though employees in this sector have eschewed unionization over the years, certain conditions, certain circumstances, a certain approach and certain actions of employers during the last two years have resulted in an environment of disquiet which in turn triggered the quest for collective voice. The modalities of these conditions are examined in the next section.

3 THE QUEST FOR VOICE: LIVED EXPERIENCES CAMEOS

3.1 *Employee Voice: The Reality*

As temperatures soared in the summer of 2017, tempers were also on the rise among members of the software development community in the southern city of Chennai in Tamil Nadu, which shares a strong ‘software’ identity with other cities like Bengaluru and Hyderabad. There was a sudden flurry of activity in the HR departments of leading software firms distributing ‘pink’ slips to their software personnel much to the chagrin of the targeted techies caught totally off guard.

An audio recording of a tele-conversation between a junior HR executive and a technology associate of a leading IT firm chronicling an episode of abrupt termination from service went viral on the Net in the summer of 2017, while simultaneously creating a furore in the print and television mediums (HR Executive-Tech Associate 2017). The decibel level reached such a crescendo that the chairman and chief executive of the firm went public in damage control mode with an apology, thus, in a sense, authenticating the episode as well as the contents of the audio (PTI 2017a). What caught the attention of the public and led to an upsurge of outrage and widespread feeling of insecurity among software personnel was not only the ruthless abruptness of the forced termination agenda of the conversation but also the stark contrast of the authoritarian tone and tenor of the HR executive with the plaintive pleas and the distressed entreaties of the termination target. The HR executive makes no bones about informing the technology associate that he has to go because he is ‘part of the list’. His going has nothing to do with ratings. He has to go because of a company-wide ‘cost optimization’ exercise. ‘The list’ is mandated by ‘corporate’ with the consent of his immediate supervisors. No appeal is possible. ‘Is there anyone beyond the CEO and CPO?’ (Chief Executive

Officer/Chief Product Officer). As a matter of fact, he is told he has already signed and given consent to the company's right to terminate his services at the time of joining itself, so he has no reason to complain. And the unkindest cut of all came down on the 'target' like a guillotine—either he resigns by next morning which then will be treated as a 'normal exit' or he will be summarily terminated without any 'benefit' including denial of an experience certificate. And so the conversation goes on.

3.2 *Decoding the Voice Context*

The gambit employed in this conversation is the oldest 'coercive bargaining' tactic—present the other party with two options, one worse than the other. Resign or be terminated leaves the associate dangling between the 'devil and the deep sea', the other name for this tactic which also hems in the associate in a 'now or never' time frame. The episode also sounds like a trailer on what 'labour market flexibility' would look like at the point of engagement from the point of view of the labour reforms brigade. What is sought is unbridled, unfettered license to terminate employees at will and without the least compunction, without due process, without opportunity to appeal, without even a semblance of respect for someone who had worked for the organization for a substantial period.

This shocking episode, while providing evidence of the reality of the insecurity of employees in the software sector, also offers interesting insights into the modalities of the neo-HR approach in the IT work context. Firstly, the modus operandi is ample proof of what can be termed as a neo-HR policy of 'deliberative' insecurity. The word 'deliberative' has three connotations plus one—premeditated, calculated, intentional and *targeted*. The action strategy underlying this episode was clearly premeditated—not an arbitrary, whimsical, on the spur of the moment kind of action. The action is calculated—it is a cost optimization exercise mandated by top management. The action is intentional—there is no transparent process, no known criteria, no prior warning—number reduction is the unambiguous intention. The action is targeted—defined, identified, and specified. They are 'on the list'. No further explanation is warranted, no process is claimed and no quarter is given.

The idea behind 'deliberative insecurity' is to send a clear message to everyone. The target could be anybody—performance, experience, contributions, awards, none of these factors matter. This could happen anytime, number of years of service does not matter, dedicated service

does not matter. This could surface anywhere in the firm, in any function, any verticals, any location, any level. No one is safe; it all hinges on whether they are 'on the list' or not. They have already signed their employment death warrant on the day they signed the contract, so the demand for resignation is perfectly in order.

The stark reality represented by this expose is a chilling glimpse into what happens behind the neo-HR barricades and can be legitimately termed as the 'deliberative insecurity' agenda of the neo-HR approach. The real agenda of 'deliberative insecurity' is a conscious strategy to optimize cost and maximize profit delivery and simultaneously commodify and intimidate the worker. In the context of the quest for voice, two conclusions come through unequivocally from this episode. On the one hand, when termination strikes, the powerlessness and the apparent helplessness of the rank and file IT employee hitherto mesmerized by the subjugating behavioural 'professional identity' code, is in clear evidence. In addition, the true face of the neo-HR approach comes through in all its transactional ruthlessness. Employees experience first-hand that decisions are made unilaterally, communicated contemptuously, executed stridently, imposed suddenly without any scope for prior due process or post-termination appeal. The source of what has been termed as 'deliberative insecurity' emerging from this termination episode is evidently structural—the employment contract itself wherein the employee is made to sign his/her termination consent even at the point of entry into the organization. There is thus a structural basis for this hegemonic behaviour. The script, in this case, asserting and upholding the managerial right to terminate in absolute terms, is premised on the premeditated, calculated, intentional and targeted inclusion of a clause in the contract which management not only can but demonstrates that it will deploy at a time of its own choosing. The true face of neo-HR behind the façade of the 'professional identity' behaviour code stands unmasked.

The consequence is the much researched precarity of the employee (Hardy 2017). Precarity is not just a series of random episodes of a few employees here and there but an all-encompassing state of the work context engineered by the policies and practices of the 'deliberative insecurity' design of employment relations. Significantly, constitutionality and legality concerns and considerations seem to be visibly and audibly absent in the termination discourse caught on audio. If such is the status of employee voice, whither the voice of individual resistance or even mobilizations of collective voice in the face of the cold-bloodedness of 'deliberative insecurity' which evidently underlies the grim reality of the world of work in the IT context?

3.3 *Voice Perceptions and Reactions*

The suddenness of the termination action and the intimidating methods employed impacted not only this particular individual but every individual in employment in this sector and every individual seeking employment in this sector. Words flew thick and fast over the Internet and social media with expressions of shock and anger and disbelief and resentment using the ‘comments’ tool linked to the audio recording referred to earlier and also to other related media reports. A select few reactions provide a window into how the affected persons reacted to the audio episode detailed earlier, which gives a glimpse into the quest for voice among software sector workers.

Reactions to the earlier episode expressed scepticism about the ‘alibi’ of performance ‘appraisals’ as a basis for terminations, considering that retrenchments were disproportionately high (PTI 2017b). The neo-HR practice of performance-linked terminations is in stark contrast to an earlier era where terminations to be legally sustainable had to follow due process of law pertaining to discipline and domestic enquiry and the principles of natural justice. Managements countered this by stating that separations were based on ‘routine’ performance-based reviews. Significantly, management focus was on ‘a more rigorous skill review’, suggesting that the ‘deliberative insecurity’ design leverages vulnerabilities, which in this case being skills, and those without the requisite skills requirements for emerging new technologies were summarily weeded out (Siddiqui and Sharma 2017). There is readily acknowledged awareness that the software industry, in its relentless technological march into the future, destroys the creators in their very act of creation—“*IT is a cannibalistic monster that will devour itself in terms of jobs through automation, just as it does to other industries.!*” (Sood 2017). Every advance in technology brings in its wake a deskilled workforce in need of reskilling to meet the requirements of emerging technologies. And this also spells a new threat to employment levels—“the global tech industry is increasingly relying on automation, robotics, big data analytics, machine learning and consulting—technologies that threaten to bypass and even replace Indian workers” (Najar 2017). Skilled personnel-led IT companies are fast moving towards a machine-driven environment. The division of human labour of Taylor’s scientific management (1919) is now morphing into human-machine division of labour with the spectre of ‘more machine less human’ or even ‘no humans only machines’ looming on the not so far way horizon further pushing the

deskilling discourse into a ‘de-human’ cauldron of imponderables on the livelihood question. Deliberative insecurity is likely to move from workplaces to social spaces and from ‘voicelessness’ to ‘humanlessness’.

No wonder then that Marcuse (1964, 6) posits that technology rationality morphs into political rationality as technology is always subsumed by the construction of the social relations surrounding its deployment. For instance, skill redundancy is a consequence not just of strategic myopia of top management or the relentless forward march of new technologies but more an instrumentality of the social relations crafted on what we have termed as the ideology of ‘deliberative insecurity’ which impels managements to leverage deskilling vulnerabilities in transacting workforce reduction. ‘Deliberative Insecurity’ then is the articulation of the political rationality of the deployment of ever-advancing technology. Instead of overcoming the value chain lag by preparing the current generation of technologists for the future by providing requisite opportunities for futuristic skill upgradation and simultaneously proclaiming that the currently employed resources as well as newly graduating resources are ‘unemployable’ (ET Online 2017), skill deficiency becomes the deliberately identified means to fuel employment relations precarity in general and to target employees specifically for separation. Employees believe that the underlying reason for mass retrenchments of targeted individuals is to optimize cost and to deliver higher profits to the shareholders and skill redundancy is but yet another instance of opportunistic means to achieve the unforgiving strategic end. Again, when targeted individuals are asked to resign, unquestioning compliance is expected, given the socialization into the ‘professional identity’ behavioural code of the neo-HR mode of functioning. Those socialized into the ‘professional identity’ behavioural code are expected to display ‘stoic’ behaviour in the larger interests of shareholders and investors. Refusal to comply invites intimidatory and retaliatory actions leaving no scope for due process or appeals to higher authorities (Siddiqui and Sharma 2017).

3.4 *Voice Triggers and Alternative Articulations*

Stung by the sudden surge in job losses across software employers, professional identities took a sudden turn towards trade union identities in a sense puncturing the potency of the much-celebrated neo-HR ‘professional identity’ behavioural code. Around 100 IT workers joined together

and resolved to fight for their rights and also to demand compliance with existing labour laws (Vasumathi 2017). The Forum for Information Technology Employees which had a prior existence as a Tamil rights body was transformed into an IT employees' organizing body in 2014.

Fissures developed in FITE even in its early gestation period when a section of the members in Chennai with Marxist leanings enrolled with the DTUC-Communist Party Marxist Leninist (CPML) union organization. FITE leadership wished to keep the organization independent, sectoral as well as apolitical, whereas the splinter faction felt the need for a left political affiliation to put up a more potent resistance to employer militancy. Inter-factional dialogue failed and the Marxist-leaning members were expelled from FITE (Vasumathi et al. 2017). Another left-oriented New Democratic Left Front (NDLF) started an IT wing and called itself New Democratic Labour Front (NDLF)-IT and became active in mobilization by providing legal support and legal awareness among IT employees (NDLF-IT 2017). Although both unions work among IT workers, there are ideological differences since FITE sees itself as an 'independent' union of 'professionals', whereas NDLF-IT subscribes to left ideologies. According to R. Vasumathi, president of FITE, "We are committed to running FITE as a forum for IT professionals by IT professionals. Today the industry is going through a crisis and employees are paying a harsh price. Today, more than ever, we need an organization that is focused on representing our interests" (Babu 2017). Neo-HR theorists brought up on a diet of hostility towards unions would see in this pronouncement and a development of the kind articulated by the FITE leader as a 'betrayal' of the professional 'identity' behaviour code. While many joined unions recognizing the need for a collective, there was fear coming in the way of enrolling, given a hostile environment to unionization. The general view veered round to the position that joining a union will lead to blacklisting as 'troublemakers' not only by individual employers but also by industry bodies. The fear of union affiliation affecting career continuity and progress acts as a deterrent (News Desk 2017).

Employers true to form, brushed aside the emerging mobilization phenomenon as transitory and non-significant (Daniels and Jog 2017) with the warning that most of the projects are with international clients and such union mobilization may lead to flight of investors to union-free environments (Ray and Lakshmana 2017)—a standard bargaining tactic when employees seek voice by collectivizing to protect their interests.

The clamour from the affected sections for state intervention led to the Tamil Nadu government issuing a notification to NDLF to solve grievances within the ambit of the ID Act 1947 which also facilitated the formation of unions under the Trade Unions Act, 1926 (NDLF-IT 2017). Attempts were also made by the NDLF-IT wing to activate the conciliation machinery under the Industrial Disputes Act 1947 in various centres. There have been tripartite meetings between the members of the FITE, representatives of the IT companies and the labour commissioner of Chennai as well. The list of issues included ill treatment of employees, sudden retrenchments on the basis of performance shortfall, opacity of performance appraisal processes and threats of supervisors (Sushma 2017). Adjudication was also activated as an option for seeking redressal. For instance, a manager in a software services company, having been terminated, moved for quashing the termination order under Section 41(2) of the Tamil Nadu Shops and Establishment Act (TNSE Act) and also challenged the contention of his employers that since he was a manager, the said provisions of the TNSE Act 1947 did not apply in his case. The writ petition went before Hon'ble Justice Chandru of the Madras High Court who ruled in favour of the petitioner on both counts. Legal redressal of individual terminations found a new redressal avenue as a result of the legal reasoning articulated in this judgement which has extended all the provisions of the TNSE Act 1947 to the IT sector (Chandru 2011, W.P.Nos.1217 and 1218 of 2011 and M.P.No.1 of 2011, 15).

The pattern which emerges from the reactions to the termination episode is revealing. While alignment with profit delivery objectives is seen as the underlying driving force behind retrenchments, employees also indict firms for strategic failure in not moving up the technology value chain leading to the much-hyped skills crisis. The inevitability of the advancement of technology with its attendant skills redundancy is acknowledged, and here again employees point to the strategic human resource management failure wherein instead of proactively reskilling employees towards adopting new technologies, neo-HR functionaries engage in ruthless retrenchment using intimidatory tactics under the garb of cost optimization and skill reviews. The emergence of unions faces the problem of membership fears about enrolment in unions, given employer hostility and retaliatory behaviour and the likely impact on work and careers.

4 INSECURITY AND VOICE DYNAMICS

4.1 *Activating the Antithesis*

Marx (1955, 47), while discussing Proudhon and Hegel, makes a reference to the change process ‘triad’ which is of relevance here—thesis, antithesis, synthesis. Basically, Marx suggests that if a stakeholder takes a position, there is the likelihood of opposition; if there is an affirmation, there is the possibility of negation. The unilateral imposition of widespread retrenchment by employers without due process or avenue for appeal in the pursuit of ‘deliberative insecurity’ practices unleashed a surge of opposition from IT employees which provided a legislative and legal fillip to point of engagement unionization, and also once unionized to activate the conciliation and adjudication machinery to counter mass retrenchments. In spite of pervasive fear of employer retribution and anxieties about an ‘employer black list’ of ‘troublemakers’, the stridency of the position taken by employers on retrenchment triggered moves towards collectivization. When neo-HR-devised ‘deliberative insecurity’ crossed a certain threshold, the false consciousness of the much-touted neo-HR professional identity’ behavioural code unravels and dissipates to release the green shoots of the latent reality of class identity and the first steps towards combination to put up some resistance against ‘deliberative insecurity’ policies and practices through mobilization and collectivization, direct representation, legislative action and the activation of the conciliation and adjudication machinery to counter terminations.

Three broad trends emerge from the discussions so far—the decline of democratic sensibilities and the attendant oligarchic tendencies, increasing insecurities at the workplace and the resultant livelihood uncertainties, technology-induced accelerated rate of deskilling cycles and the consequential struggle against skill-centric redundancies. These tendencies, while combining together to create conditions for the need for voice, yet also ironically coalesce to seriously militate against any move by the affected workforce towards mobilizing their voices of resistance, especially through combination and concerted action. Marcuse (1964, 4) has no illusions about the forces which constitute the ecosystem of hegemonic power over individual employees and their hegemonic capability to constrain any alternative social change towards the pursuit of new forms of production and social relations.

4.2 *Oligarchy and the Stifling of Employee Voice*

Oligarchy is a strong word but what it translates to in concrete contexts is the observable reality of ‘rule by the few’ informed by the ‘iron law of oligarchy’ (Michels 1915). How societies, politics, economies and workplaces are governed is not only about who governs but also, more importantly, about how they govern. Michels (2001, 227) quoting Bakunin “He who speaks of power, speaks of domination, and all dominations presumes the existence of a dominated mass”, suggests that domination is power, and the consequence is a power struggle between the dominated and the dominating.

The question of who has power is a function of on whose behalf power is wielded and who as a consequence is assigned to the power margins. Power and powerlessness are inextricably linked to voice and voicelessness. According to Bakunin (1971, 77), for free association and dispersed power, voice should flow from the grassroots upwards. But when power is concentrated hierarchically behind facades of pseudo-representativeness informed by the neo-HR ‘professional identity’ behavioural code, the exclusion of the producing rank and file from the exercise of power has its own ‘unintended consequences’ for organizations (Merton 1972, 105). Unintended consequences ‘myopia’ linked to denial of voice intensifies latent alienation among excluded sections of the organization, sharpening underlying contradictions, given the simultaneous prevalence of productivity and precarity, fear and subjugation, wealth and inequality (Marcuse 1964, 5).

Workplace management power tends towards technology-aided systems and processes where power held by a few individuals at the top demanding unquestioning alignment with laid down organizational imperatives corrupts the power wielders. The corruption in this context is not the kind of all-pervasive form of corruption which yields ill-gotten wealth, a manifestation which John Ruskin (1921, 97) aptly characterizes not as wealth but ‘illth’. The connotation of corruption here is the corrosive wielding of unbridled power as is manifest in the termination episodes discussed earlier which reduces workers to ‘compliant automatons’ subject to a debilitating ‘professional identity’ behavioural code. The only voice is the voice of task and target fulfilment, intensified through the ubiquitous performance appraisal system, which implemented in an arbitrary, discriminatory and intimidatory manner itself becomes the primary tool of the ‘the iron law of alignment’ with the imperatives of cost-optimization-driven terminations.

4.3 *Flexibility, Rigidity and Deliberative Insecurity*

Oligarchic unilateralism provides cover for a design of employment relations at the organizational level to pursue what has been euphemistically termed as ‘labour market flexibility’ in order for the managerial agents of the employer classes to deal with the problem characterized as ‘labour market rigidity’. Solow (1997) suggests that any statutory employee rights like right to unionize or right to employment security or fair compensation for overtime or even health and safety benefits would be seen as barriers to corporate market performance. The fact of the matter is that for the powerless and voiceless on the periphery of the workplace, labour market flexibility appears synonymous with acute insecurity, cutting across all aspects of working lives—knowledge, skills, experience, jobs, incomes, employment, health, safety, collectivization, livelihoods and extends vulnerabilities even to the next generation. From a labour perspective, it is not rigidity and flexibility but security and insecurity that are at stake in the struggle for voice in employer-employee relations at the workplace.

This struggle is also situated in the state versus market dynamics in which compliance with labour laws comes into direct confrontation with market performance. Market performance can be defined in various ways, but the key attribute is constructed around the profit delivery capability of organizations within which frame of reference, compliance with relevant labour law more often than not is a ‘cost-optimization’ casualty. The broader thrust of profit-seeking organizations and their organized lobbies on the question of labour ‘reforms’ is really about repealing all laws which obstruct unbridled cost optimization and unfettered profit-taking. Labour is just a commodity to be exploited to the hilt according to the vagaries of the ‘markets’ as determined by the managerial oligarchs of organizations with an unerring eye on profit delivery capability driven by the ‘iron law of alignment’ achieved through the exploitation of the vulnerabilities of employees at any given point in time.

Insecurity is a deliberative policy applied relentlessly on the three labour variables—numbers, hours and wages. The view underlying managerial oligarchic thinking is that permanence is negatively correlated with performance—‘the higher the security, the lower the performance’. Tenures are uncertain, and compensation of the insecure workforce tends to be one-third of the permanent workforce. A situation arises, in which representative voice is arguably a dire necessity, but the contours of the context are such that they militate against the emergence of voice due to the fear

of instant retribution, given the reality of ‘deliberative insecurity’ as the foundation of managerial power to terminate workers. Prevailing law and the need for statutory compliance are hardly a deterrent given the ‘de facto’ deregulation in the sense of the silence of the law enforcing agencies and agents, barring a few exceptions like in Tamil Nadu and Karnataka.

If organizational hegemony and managerial unilateralism stifle representative voice and if the ‘iron law of alignment’ with profit delivery as the prime objective of organizations utilizes ‘deliberative insecurity’ as an anchoring strategy, the net consequence is the ‘iron law of containment’ of the emergence of collective representation of the workers. How the technology discourse plays out in the midst of collectivizing contexts is worth considering.

4.4 *Technology and the ‘Skilling Process’*

The mobilization and organization of voice in related contemporary discourse is to a large extent intertwined with the question of rapidly advancing technology. Advancements in technology have a bearing on employment as well as on the organization of voice in employment relations. The question in the context of disruptive technology advances relates to whether technology induces turbulence in employment relations or whether the mode of employment relations dictates the approach to disruptive technology dynamics and the consequential impact on worker employment continuity and security. Marcuse (1964, 6) has stated that given the oligarchic domination of social arrangements, technology itself is not neutral and is at the service of dominant interests not only in terms of choice of technology but the manner in which the social relations around the deployment of technology is constructed.

We have seen earlier that flexibility and rigidity do not mean the same thing for employers and employees. Cost optimization and profit delivery underlie managerial considerations, while work and wage security are the preoccupations of the working classes. While ‘numbers, hours and wages’ are material in the flexibility versus insecurity debate, when technology is thrown into the conversation, the focus shifts to skill vulnerabilities and the exploitation of these vulnerabilities for the ends of deliberative insecurity. Every stage in the march of technology calls for upgradation of skills on the part of the workforce, given the stage of technological advancement at any given point in time. Every generation of skilled workforce use their current skills to bring into being the next generation of advanced

technologies. And in the technology reproductive process, there is this relentless propulsion towards the relevant skills of today becoming redundant skills of tomorrow. This renders the current workforce deskilled in the face of the requirements of requisite skills for the next level of technology. Every generation of the skilled workforce is actually working towards the annihilation of its own 'skill relevance' within the framework of the dictates of the 'iron law of oligarchy' and the 'iron law of alignment' of profit-seeking organizations implemented through the neo-HR 'professional identity' behavioural code. While the 'professional identity' behavioural code elicits 'consent' to the management mandate of surplus generation, the skilled workforce loses its own employment security on account of 'deskilling by consent'. The numbers of technical workers deployed, the hours worked and the wages received under the iron law of alignment with cost optimization as the driving force, all merge together to produce the next level of technology, while simultaneously the producing workforce faces the next level of deliberative insecurity devised by organizational oligarchs. Numbers, hours and wages continue as the elements of oligarchy and alignment, but deskilling is the managerial bargaining leverage both for declaring redundancy of high cost workers and for induction of new skills for the next generation technology at a lower cost. Deliberative insecurity is engineered through greater emphasis on 'skill review' rather than a holistic 'performance review', given the degree of vulnerability of the workforce on the skill front. The employment relations question in the newly emerging technocentric environment is that Braverman's 'labour process' in some senses is now about 'skilling processes' with the deskilling being the basis for employment insecurity and discontinuity. The deskilling linked to the division of labour for work organization in Braverman's scheme of things is now about reskilling to face the new division of labour between humans and machines and the progressive replacement of humans through automation.

The inevitable conclusion is that it is not technology in itself and by itself which drives the social relations of employment, but it is the contours of employment relations informed by the iron law of oligarchy and the iron law of alignment committed to profit delivery which reproduces more lethal forms of deliberative insecurity for the very generation which produces the next level of technology. The key variable behind insecurity is skill in all its manifestations—redundant skills and requisite skills, deskilling and reskilling. The benefits of the development of advanced technology go to the owners of the organization, while the skilled developers of

the technology stand deskilled in the eyes of neo-HR and, as a consequence, are discharged by management.

As Braverman (1998, Appendix 2, 37) has said: to alienate means to transfer ownership to another. The social relations devised by owners of capital alienate labour from the product, from the process of production, from the outcomes and also from other fellow workers. And this is largely achieved through the instrumentality of the division of labour operationalized by Frederick Taylor (1919) and his tools and techniques.

The developers are so involved in development driven by the oligarchical regimes designed with the policies and practices oriented to a culture of 'consent' Burawoy (1982) that they fail to see that they are spiralling headlong towards their own deskilled irrelevance. Braverman (1998, 14) has said this with greater effect that, "technology, instead of simply *producing* social relations, *is produced by* the social relations represented by capital". Social relations are produced not by technology per se but by the owners and managers of capital in order to deploy technology towards ever-increasing profit delivery for shareholders.

5 THE QUEST FOR VOICE

Research studies and lived experiences testify to the conclusion that human quest for voice is fundamental to human engagement, much more so in the contested domain of employment relations. And yet it is also evident that in this context, the quest for voice in its collective form is met with hostility by employers at the point of engagement, often with the passive complicity of the state machinery. This conclusion is in evidence in the technology sector, given the rapid and disruptive nature of the advance of technology and the consequential turbulence observed in employment relations and the quest for voice by workers.

The inevitable conclusion from research and reality in this sphere is that technology itself does not diminish the worker, but it is the design of the social relations of employment devised by neo-HR around technology within the frame of the 'iron law of alignment' with profit delivery as the relentless goal and the 'iron law of oligarchy' to control work processes through the 'professional identity' behavioural code, which combine together to devalue the world of work and belittle the contribution of the toiling worker.

The key to decoding social relations is the neo-HR regime of 'deliberative insecurity' which exploits employee vulnerabilities under the garb of performance imperatives to achieve cost optimization by manipulating

numbers, hours and wages using the ‘forced choice’ method of reviewing performance. The vulnerability targeted by neo-HR in the IT sector in the recent past as discussed earlier revolves around the ‘skilling process’ as the key ingredient in the performance-linked targeting of workers for retrenchment, given the reality of deskilling on the one hand and progressive automation on the other, fundamentally transforming the human-machine configuration in technology solutions delivery.

Deliberative insecurity policies and practices, with skill review as the main weapon, executed in consonance with oligarchic power structures and the attendant iron control over work organization through the ‘professional identity’ behavioural code to further cost optimization and profit delivery objectives cast a shadow of uncertainty and unpredictability over job continuity and income stability, given the large numbers of retrenchments across IT majors witnessed in recent years. While these factors combine together to make unionization intimidating for the individual IT worker, simultaneously the myth surrounding the neo-HR inculcated ‘professional identity’ consciousness meant to sustain the ‘deliberative insecurity’ strategy suddenly has also started dissipating due to neo-HR’s own oligarchic excesses and aggressive exploitation of skill vulnerabilities.

Managerial mobilization built up around the ‘professional identity’ consciousness yielded to collective consciousness of protest and resistance which found articulation in two variants—trade union consciousness (FITE—organization of IT and for IT professionals) and social democratic consciousness (FITE—left-leaning faction DTUC/CPML [Communist Party (Marxist-Leninist)] and NDLF-IT left-leaning union)—with the main objective of protecting IT workers’ rights and also to ensure legal compliance of employers in preventing or restoring loss of jobs primarily through legislative and legal action available within the ambit of legality and Constitutionality.

If there is a thesis, there will be an antithesis; if a stakeholder takes a position, the other stakeholder will take a counter-position; if there is affirmation, there will be a negation. Neo-HR’s ‘deliberative insecurity’ executed through exploiting vulnerabilities in the ‘skilling processes’ in the IT sector triggered the mobilization of collective voice. The answer to any violation of human dignity at the workplace is the inevitability of the constitutionally and legally conferred right to collective voice as a counter. Recent developments on this front in the IT sector testify to this conclusion.

Collective voice is a legitimate right of IT workers who from the available evidence are only seeking to collectivize fundamentally to protect

their dignity as human beings in workplaces and workspaces. And the underlying sentiment discernible behind the right to unionize is reason enough—human dignity is non-negotiable.

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Indian Freelancers in the Platform Economy: Prospects and Problems

Premilla D’Cruz and Ernesto Noronha

I INTRODUCTION

An emergent manifestation of offshoring and outsourcing contemporaneously is embodied in the platform economy (Ettlinger 2016), also termed the gig economy (Lehdonvirta 2018) or the sharing economy (Sundararajan 2016), which gives rise to digital workplaces and digital labour (D’Cruz and Noronha 2018; Moore 2018), involving crowdwork (Todoli-Signes 2017), often across global production networks (Scholz 2016). While the platform economy has been variously classified to encompass its complex forms (Schor 2017), a simple differentiation is that of offline work and online work (De Stefano 2016). Offline work comprises ‘work on demand via apps’ which is platform-facilitated yet place-based and geographically limited and includes transport, cleaning and running errands (e.g. Uber, Taskrabbit). Online work comprises jobs such as micro-tasks, skilled work and innovative projects which are undertaken online through platforms which connect indefinite numbers of clients and freelancers, often across

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borders (e.g. Upwork, Amazon Mechanical Turk) (De Stefano 2016). Both international and local offline (e.g. Uber worldwide and Dunzo in Bangalore) as well as online (e.g. Upwork worldwide and Freelanceindia nationally) platforms are present in India. It is estimated that about 15 million freelancers work on the platform economy across the globe (Smith and Leberstein in De Stefano 2016). Though this number includes freelancers on multiple platforms and hence may not be completely accurate, it is not negligible either (De Stefano 2016). Though Indian estimates across offline platforms are unavailable, online platforms include 40,000 to 120,000 aspirants (Menon 2015). This chapter, relying on available international literature and Indian primary data, highlights the prospects and problems faced by freelancers in online labour markets.

2 FREELANCING ON ONLINE PLATFORMS

Online labour markets (OLMs), challenging traditional business models (Aloisi 2015), are virtual mediated exchanges operated by platform owners and their employees (i.e. site administrators) via the Internet through which organizations or individuals (i.e. clients/buyers/requesters) access other individuals (i.e. freelancers/sellers/workers) for remunerative tasks of varying temporality and complexity with commensurate qualifications and returns (Ettliger 2016). Platforms function as intermediaries with no liabilities as they deliberately and carefully protect themselves from any legal, financial and other commitments towards clients and freelancers (Caraway 2010), retaining as their fee a percentage of the payment between clients and freelancers (Aloisi 2015). Platform staff are different from freelancers, enjoying employee status and so protection and benefits (Kneese and Rosenblat 2014).

Epitomizing platform capitalism (Lobo in Scholz 2016), crowdsourcing via online exchanges provides a labour market which facilitates profit maximization, given its advantages of flexibility, scalability, access to a broad range of skills and experiences at significantly less cost, coupled with the lack of employment regulations (Pongratz 2018). Eliminating the transaction costs of offshoring and outsourcing, online labour markets appeal to firms which can access labour that expands and contracts on demand, without any significant logistical hurdles (Caraway 2010; Kittur et al. 2013; Bergvall-Kåreborn and Howcroft 2014), while conserving internal resources for critical jobs (Leimeister and Durward 2015; Risak and Warter 2015). Even as organizations are exhorted and schooled in optimizing the potential of the platform (Ford et al. 2015; Schmidt and

Jettinghoff 2016), the re-shaping of markets to emphasize personal outsourcing rather than complex businesses becomes apparent (De Stefano 2016). Yet, crowdsourcing is a complex arrangement, calling for specialized tools, technology and know-how to organize the various tasks and manage the workforce (Kneese and Rosenblat 2014; Leimeister and Durward 2015) via an invisible infrastructure located largely in cyberspace (Caraway 2010; Aloisi 2015). Though digital traces, rather than direct supervision (Kneese and Rosenblat 2014), keep management control 'at a distance', it remains all powerful (Caraway 2010). Indeed, platforms operate via algorithmic management whose details are generally undisclosed and proprietary (Gandini et al. 2016). Relationships are fleeting and largely anonymous, with no obligation to provide support or facilities to the workforce (Bergvall-Kåreborn and Howcroft 2014).

OLMs provide a route to employment and employability for individuals who are already employed, self-employed or unemployed, through full-time and part-time engagement, offering opportunities to build work experience, 'brush up' existing skills, uncover latent skills and develop specialist skills (albeit at the workers' expense) which may lead to further learning and training and other employment, being transferable to other roles, sectors and settings (Green et al. 2014; Lehdonvirta and Ernkvist 2011). Competing for work opportunities via bidding (Holtgrewe 2014; Johnston and Land-Kazlauskas 2018; Leimeister and Durward 2015) in a context where disposability is high (Kneese and Rosenblat 2014), freelancers involuntarily become entrepreneurial under pressure to protect their interests, though they may also settle for the least remuneration (Holtgrewe 2014; Kneese and Rosenblat 2014; Leimeister and Durward 2015). While work organization and incentive structures vary across platforms, depending on the task and skill required, all workers rely on their reputation (D'Cruz and Noronha 2016; Kneese and Rosenblat 2014; Aloisi 2015; Risak and Warter 2015) as well as on relationality (D'Cruz and Noronha 2016, 2018) as means to acquiring future work and continuing on the site. Reputation, a function of work quality, work efficiency, work ethic, integrity, communication skills, time management and so on, is built up through initial self-portrayals and later client ratings and reviews, notwithstanding the subjectivity involved (Caraway 2010; Green et al. 2014; Kneese and Rosenblat 2014). Relationality, entailing professional and cordial interactions, especially with clients and platform administrators, but also with fellow freelancers, linked to good social skills and appropriate decorum and behaviour, is instrumental in securing more

work but more importantly in leading to good ratings and even 'repeat work' where satisfied clients are keen to again engage the same freelancers on future projects (D'Cruz and Noronha 2016, 2018).

OLMs have been considered as embodying decent work deficits on all four counts relating to full and productive employment, rights at work ensuring human dignity, social protection and social dialogue (D'Cruz 2017), promoting the commodification of labour (De Stefano 2016) in a context of power imbalance (Moore 2018). Indeed, the platform economy facilitates the growing casualization and informalization of work, with non-standard forms of employment predominating (D'Cruz and Noronha 2016; de Stefano 2015). Costs and risks are shifted onto workers, including those of infrastructure (Berg 2016; Holtgrewe 2014; Kneese and Rosenblat 2014; Aloisi 2015). Yet, with workers being referred to as 'independent contractors' by the platforms (Berg 2016; Johnston and Land-Kazlauskas 2018), Aloisi (2015) states that crowdsourcing calls into question the scope of labour laws which focus on 'employees'. With platforms performing regulatory functions themselves (Berg 2016; Sundararajan 2016), Bergvall-Kåreborn and Howcroft (2014) have underscored the 'borderless' nature of crowdsourcing, indicating that crowd employment platforms are largely hidden from view, operating outside legislation (Pongratz 2018), often going 'off-state' and not subject to potential democratic oversight (Urry 2014), with employers thus escaping accountability to and scrutiny from governments and unions (Holtgrewe 2014; Kneese and Rosenblat 2014; Aloisi 2015). Moreover, organizing freelancers can be difficult (Ettliger 2016; Risak and Warter 2015) since, apart from being spatially dispersed, they are kept 'hidden' and 'isolated' from each other, employers and platform administrators and from journalists, labour organizers and watchdogs (Caraway 2010; Irani and Silberman 2013; Kneese and Rosenblat 2014).

Nonetheless, there are various attempts at regulation as well as collective action in the West, with platforms, governments, unions and even freelancers taking initiatives such as codes of conduct, platform ratings, telephone hotlines, online fora, worker centres, worker cooperatives, mobilization, collective agreements, employer-union collaboration, works councils, litigation, new legislation, privacy laws and so on (Johnston and Land-Kazlauskas 2018; Moore 2018). Though these focus on specific locations and particular platforms, especially offline ventures, and have varying effectiveness in terms of realizing aspired outcomes, they represent important attempts to protect the interests of workers in the platform

economy and signify the agency of workers and/or the concern of other parties who seek to secure workers' well-being. More inclusive across offline and online platforms are attempts to establish decent work standards (Heeks 2017) and fairness certifications (Graham and Woodcock 2018). Moore (2018) and Risak and Warter (2015) maintain that International Labour Organization (ILO) and United Nations (UN) instruments such as conventions, recommendations, codes of practice and so on hold potential relevant to the interests of crowdworkers in the platform economy.

3 INDIAN FREELANCERS ON UPWORK

We conducted a qualitative study of Indian freelancers on Upwork, the international online platform. We sought to cover aspects such as seeking and finding remunerative jobs; building reputational and relational capital; facing fraud, abuse and discrimination; and contemplating the future. We telephonically interviewed 24 freelancers (15 men and 9 women whose ages spanned between 21 and 44 years and whose educational qualifications comprised 2 students, 9 graduates and 13 post-graduates) from 13 Indian cities. This included 15 full-timers having online work as their only employment and source of income and 9 part-timers (two of whom received more than half of their average monthly income from the platform and two of whom were students). With tasks undertaken being data entry, research assistance, content writing, marketing and public relations, business analytics and information technology (IT) applications, full-timers' average monthly earnings ranged from (Indian Rupees) ₹10,000 to ₹400,000. Fifteen participants worked independently, interfacing with clients only, with the rest combining independent and teamwork in varying proportions. Thematically, participant narratives portrayed freelancers' experiences of gains juxtaposed against vulnerabilities. Some participants addressed these contradictions by invoking the emphasis on merit and conformity in the platform economy, maintaining that regulation and collectivization are irrelevant. Other participants appreciated the importance accorded to merit and conformity but acknowledged the precarity of OLMs and hence underscored the need for external oversight.

3.1 *Seeking and Finding Remunerative Jobs*

Bidding marked freelancers' pursuit of work. Participants who had to engage in bidding to get projects described the experience as challenging,

though full-timers, due to their higher interface with and hence greater familiarity with the site, were more adept at it than part-timers.

The process of acquiring a contract involved checking job posts and preparing bids which showcased one's skills, experience, performance and appropriateness for the task. To this end, building a profile, maintaining a positive image, marketing oneself in general and for a job in particular and being entrepreneurial were important facilitators. While all freelancers engaged diligently in these activities, full-timers were more tuned into checking job posts frequently and hence preparing bids in a timely manner. Spending more time on the platform facilitated this process. Not only did this improve their chances of getting work but also honed their prowess at successful bidding through more exposure to appropriate strategies. Further, the completion of work as per client satisfaction resulted in enhanced profiles due to the accruing ratings and feedback and added experience. Full-timers were at an advantage since they relied totally on the platform for work and so were able to build up their profiles more effectively. Obviously, better profiles strengthened their bids. Even so, full-timers indicated that checking and bidding involved constant alertness and strategizing that was unavoidable if one's income and career had to be sustained. Generally, based on a stock of their current work, they would plan when to engage in scanning job posts and preparing bids such that continuity in their work and income was maintained. These phases were described as requiring time and effort over and above that called for by ongoing tasks. To elaborate, since bids were generally posted during the Indian night (as they mostly originated in the West) and received quick responses, participants had to extend themselves by staying up to check posts and put together appropriate responses to them. Applying for a job involved carefully reading and comprehending its requirements and crafting a proposal that highlighted the participant's suitability through his/her skills and experience, drawing on his/her resume and platform profile including site parameters, client comments and so on as well as addressed the issues raised in the bid. Selling oneself while adapting to the client, keeping time in mind, was called for. Not only did part-timers' lack of time impinge on their ability to check posts and put up bids, but the limited success on this front affected their experience, returns and profiles on the platform and their perceptions of its effectiveness.

Two factors complicated the challenges of bidding. First, the platform maintained a ceiling limit on the number of bids possible within a defined time period. That freelancers could increase the range of their bids through

a premium account against a payment (though this also increased as skill improvements were evidenced via platform-based certifications) and/or by ‘unbidding’ (i.e. releasing existing bids in favour of newly desired bids), helped. Second, the race to get work resulted in bidding freelancers lowering rates based on the premise that clients’ cost savings agenda would favour less expensive bids in instances of multiple comparable competences. Under such circumstances, freelancers grew disillusioned with the anticipated downgraded returns and perceived input-output inequity, and many of them decided to maintain a particular rate for themselves. That the platform also specified minimum rates was seen as helpful to stall a complete downslide to the absolute bottom. Interestingly, the platform permits all those bidding on a project to see the others in the fray (with solicited returns being viewable to those with premium accounts) and to know the final awardee.

In addition to successful bidding, understanding how the platform functions and operating within its ambit ensured payments. That is, while contracts must necessarily be undertaken on the platform, following stated stipulations such as initiating work only after clients deposited funds into the platform’s escrow account, enabling site-based tracking for hourly projects and opting for the advocated option of milestone-based payments coinciding with phases of task completion for long-term fixed projects, guaranteed returns. Moving off the platform after initial discussions without a contract, initiating work in the pre-contract stage prior to clients funding the platform’s escrow account and opting for end-stage returns in long-term fixed projects left freelancers vulnerable. Not only could clients disappear without paying them but redress via the platform would be limited to situations falling within the purview of stated conditions and to evidence gathered from the site.

3.2 Building Reputational and Relational Capital

Developing and maintaining a desirable profile and displaying congenial and acceptable behaviour with clients, fellow freelancers and site administrators were highlighted as factors critical to success and continuity. Reputation and relationality influenced the evaluation and selection of a freelancer’s bid since positive images were favoured and affected longevity on the site, given that decorum and conformity were appreciated. Even so, according to participants, reputational and relational capital possess leveling qualities on the platform.

To elaborate, both clients and freelancers on the platform must enjoy a positive profile to be selected by each other since this is the only means by which they can know each other. While self-presentation is initiated when joining the platform, it comprises the party's features at that point in time. Freelancers draw on their resumes and work experience, apart from self-descriptions and platform-mandated skill tests. Clients provide insights about themselves and their organizations, sharing their scope, achievements and potential. Depending on the length of their engagement with the platform, clients detail their interface with freelancers in terms of projects and rewards offered. Participation on the platform contributes to this image through ratings and feedback. Freelancers can rewrite their self-portraits based on their work, but client ratings and feedback and platform parameters also contribute to their reputations. Apart from skill competence, task performance and work ethic, clients' comments encompass interpersonal interactions, highlighting the importance of social skills and relationship building which goes beyond evaluating completed work to determine the probability of future work with the same and new clients. Platform parameters include quantum of work undertaken in terms of number of jobs, number of hours and success rate and in-house certifications (in addition to keeping track of client comments and overall behaviour). As well as self-descriptions, clients' profiles comprise freelancer comments. That is, freelancers provide feedback about their experiences with clients, discussing the nature of the work and the quality of the interaction. Once a job is completed, clients rate and comment on freelancers, who, in turn, then provide feedback on the former. Sometime later, these responses become publicly available, with implications for further success since clients and freelancers consult displayed profiles to make choices.

Participants described two implications of the feedback process. First, since mutuality defines appraisals, neither party wishes to malign the other, recognizing that reciprocity could harm their profiles. Given that reputation is critical to success on the platform, both parties are effectively controlled not just during their interactions but also while wrapping up the contract. This is an important reason why misbehaviour on the platform is limited, being also disciplined by the platform's careful monitoring. Second, novices are disadvantaged because neither do they have a platform-based profile to bank on nor can they enjoy the privilege of being 'fussy' or 'picky' about their choices if they have to build their image. With this drawback being more pronounced for freelancers than for clients who have jobs and money on their side, the former's vulnerability is often

exploited. Freelancers in the attempt to develop their profiles and so progress on the platform fall prey to clients who, wishing to avoid the platform fee and even freelancer remuneration, take them off the platform or entice them with 'sample' work, only to disappear without making payments once the task is completed. With no platform-based documentation or with only a pre-contract position, freelancers are then ineligible to seek platform intervention.

3.3 *Facing Fraud, Abuse and Racism*

Despite the significance of reputation and relationality, mistreatment is not completely eliminated. Overall, 13 participants reported being cheated by clients who disappeared after project completion without making payments and 13 participants reported undergoing emotional abuse and racial discrimination from clients and fellow freelancers in independent and/or team projects.

Instances of cheating were more frequently specified by freelancers early in their crowdsourcing experience, especially when, in their naiveté, they agreed to move the work off the platform and hence had no site-based evidence to flag a violation. Notwithstanding their sense of disappointment and unfairness, freelancers considered this to be an important initial learning and stopped taking jobs off the platform. Cheating of more experienced freelancers was reported, though less frequently and was usually within the platform. Such cases were true of fixed projects and not hourly projects where the platform's financial processes and tracking software ensure that payments occur. In these instances, since documentation was available within the platform, disputes could be raised, and site administrators extended every support to sort out the matter, directly and repeatedly communicating with the errant client, insisting that the amount be paid. While their efforts bore fruit sometimes, generally after concerted attempts, a 100 per cent success rate did not emerge. The negative experience left participants demotivated, even if it ended favourably.

In terms of abuse and racism, participants described intimidation, aggression and hostility manifested over text messages on the platform or through oral or written means off the platform. Negative acts ranged from insulting remarks, excessive criticism, extreme antagonism, threats, allegations about misbehaviour, slandering, exclusion, micromanagement and unmanageable deadlines and workloads and were either one-off or repeated incidents. Various factors accounted for the bullying behaviours

of clients and fellow freelancers. Clients' concerns/miscommunication over task completion, issues about freelancer integrity and racial bias could also be linked to a sense of superiority derived from their pseudo-employer status which brings in the element of hierarchy. Bullying behaviours from fellow freelancers occurred on project teams, during the bidding process or via general interaction fora, being attributed to insecurity linked to the competitiveness of surviving and excelling and to racial bias. Some participants reasoned that freelancers from developed countries are hostile towards them because the lower rates for developing countries undercut the former in terms of remuneration and opportunities. On the platform, abuse and racism were usually covert and veiled, with obvious instances being automatically picked up by and inviting reprimands from site administrators or being reported by targets for site redress and sanctions. Off the platform, such mistreatment was direct and severe, but participants could not seek redress due to the location of the interaction and the unavailability of site-based proof.

Being the target of fraud, abuse and racism precipitated distress in participants. The reported strain was fleeting or persistent, lasting for a week, a fortnight or longer. Participants' reactions varied from shock, anger, sadness, anxiety, injustice and diffidence and, in some instances, affected their health, resulting in influenza, gastrointestinal problems, sleep difficulties and hypertension, as well as their performance, precipitating errors in task completion, disinterest in work and so on.

Yet, apart from instances where platforms intervened directly or participants filed complaints, solutions to mistreatment were limited. On the one hand, freelancers pointed out that the technological basis of the platform precluded taking matters into their own hands. That is, even if they wished to sort out the problem directly with the perpetrator or considered publicizing the issue or behaving likewise, the ensuing digital footprint on the platform that would hinder their reputational and relational capital and success and continuity on the site, stopped them. On the other hand, in freelancers' view, extra-platform options were unavailable since the online economy was not covered by national laws and had no external overseeing body. Under such circumstances, participants had to engage intrapsychic strategies such as cognitive restructuring, compartmentalization, affective blunting, spiritual leanings, selective forgetting, resignation and forgiveness as well as rely on informal social support from family and friends to work through their strain. Even so, participants wondered what made perpetrators engage in mistreatment on the platform when they could be caught and sanctioned based on the digital footprint they created.

3.4 *Contemplating the Future*

Overall, participants' perceptions about the platform economy reflected their misgivings associated with the complexities of successful bidding and remunerative jobs and the challenges of maintaining reputation and relationality in spite of fraud, abuse and racism on the one hand (elaborated in the foregoing sub-sections) and their satisfaction linked to the advantages of freelancing on OLMs and the support provided by the site on the other hand (elaborated below).

With regard to the advantages of freelancing on OLMs, the nature and degree of satisfaction varied with the extent of freelancers' engagement. Full-timers were usually happy with their experiences. They chose the platform either because it was the best option, given the poor employment alternatives in their cities or because family commitments involved frequent relocations and childcare, precluding regular employment outside the home. Among the former were participants whose full-time engagement on the platform was equivalent to working full-time on a regular job. These participants pointed out that the opportunities enjoyed on the platform by way of jobs and remuneration were far better than those in the local market. That the work on the platform provided them with sufficient returns for a comfortable life was emphasized.

Among the latter were participants whose full-time engagement on the platform was either equivalent to working full-time on a regular job or the only form of paid work they were involved in at the time. Women with family commitments entailing frequent relocations and childcare found the platform an attractive avenue through which engagement with the world of work could continue. Staying in touch with the job market and maintaining their skills in order to keep up their employability was described.

While all full-timers appreciated operating from home and avoiding difficult commutes as well as escaping from micro-politics, supervisory controls and interpersonal issues that accompanied organizational life, those taking on independent projects enjoyed the flexibility of setting their own daily schedule and pace. Being their own boss was underscored as an advantage, particularly for those who liked working independently, though the relevance of self-discipline was emphasized. Only two participants reported discomfort with the isolation entailed by OLMs.

Among part-timers were four participants who considered Upwork to be an erratic source of work where getting jobs depended on the availability of suitable projects and the outcomes of the competitive bidding

process. These participants who held regular full-time employment off the platform appreciated the additional income, experience and exposure received through crowdsourcing, though they could not consider it to be an option for full-time employment, given its uncertain nature. That is, while their own regular jobs provided stable returns and a secure tenure, the platform was seen as supplementing their position.

Divergence among the remaining part-timers was apparent. One part-timer opined that the platform held the potential to provide returns beyond those he was currently receiving from his full-time position in the local labour market and hence planned a transition to full-time engagement here. Two participants in the part-time group saw the platform as a stopgap arrangement till they settled into their preferred careers. Students perceived their involvement on the platform as means to skill building which would enhance their profiles in the regular job market.

With regard to the support provided by the site, various platform processes were viewed as taking care of freelancer interests. These encompassed the stipulation of minimum wages for hourly and fixed projects to guard against a race to the absolute bottom and the conduct of authenticity checks via government identification documents of all those who signed up onto the platform such that the risks of dealing with strangers were minimized. Further, the platform had rules about and monitored freelancer and client actions to ensure that proprietary behaviour and decorum pertaining to gaining/posting jobs, interacting with fellow freelancers and clients during the course of work as well as the content of communication on discussion fora, were followed. Tracking mechanisms on the platform could identify unwanted acts, inviting sanctions ranging from warnings, suspension and eviction from the site. The platform later also barred clients from requesting 'sample' work which had been associated with cheating newcomers.

A much-appreciated platform provision was the availability of redress mechanisms which looked into freelancer and client grievances whose scope included task-related, payment-related and interpersonal issues. The outcomes of the redress process could include warnings, suspension and removal from the site and determine subsequent actions to be undertaken or overseen by the platform administrators. Yet, following set procedures and presenting site-based documentation were the key to successful redress. Participants emphasized the importance of maintaining interactions on the platform in order to avail of redress mechanisms. All communication on the site was recorded and constituted the only evidence platform administrators considered when grievances were raised.

In assessing their future on OLMs, whereas all participants planned to continue their engagement, their views on the way ahead were divided. One group responded to problems of the platform economy by emphasizing that merit and conformity were the sole deciding factors. Freelancers here believed that evidencing one's abilities through task performance as well as toeing the platform's line were the bases for success. Accordingly, individualism and competitiveness privileging entrepreneurialism, self-marketing, capability and hard work as well as adhering to platform stipulations underscored their ideological position. Participants in this group held that the market and the platform determined success and survival, negating the need for any regulation or collective action.

The other group, while appreciating the role of merit and conformity in the platform economy, was conscious of the limitations associated with the lack of regulation and collective action. Recognizing the lacunae in their working conditions in terms of securing work, guaranteeing payment, ensuring long-term benefits, providing infrastructure and so on as well as the unavailability of options for tackling mistreatment occurring off the platform, freelancers here spoke of the importance of external oversight as an avenue to protect worker interests. The absence of legislation and unions were considered impediments to realizing freelancers' well-being as platform support was restricted.

In discussing the importance of collective action in the platform economy, the latter group forwarded possible hindrances. First, procedural blocks were emphasized. On the one hand, impediments arise to the quest for uniformity, given that freelancers are from different countries with their own laws and policies. On the other hand, since participation on the platform does not imply an employer-employee relationship, platforms and clients are not obliged to provide for freelancers and hence the issue of unions to fight for rights does not arise. Second, platform characteristics were detailed. That the competition which marked participation on the platform foreclosed the emergence of associations, since trust and support between freelancers were limited, was underscored. Other obstacles were freelancers' antecedents. With about 70 per cent of freelancers on the platform being in regular employment and hence not permitted to earn elsewhere, unionizing this group appeared impossible. The remaining 30 per cent who were full-timers may not have felt the need to collectivize, being happy with the platform. Overall, few participants thought that freelancers' interactions were curtailed by the platform administration since such connections could bring freelancers together and trigger collective

action. Notwithstanding these barriers, those open to the idea spoke of the utility of unions in allowing freelancers the opportunity to share and jointly represent common concerns as well as ensuring that minimum payments on the platform coincided with each country's circumstances.

One participant from the latter group who was concerned about the precarity of OLMs was a member of an offline group of Upwork freelancers in his city (which had inadvertently emerged when a larger group of software enthusiasts had met physically and a subset of them spoke about their platform membership) and stated that the interactions here, of a face-to-face nature, circled around features and technologies of the platform, with members sharing concerns and advice. He added that group members being guarded in their interactions to fend off competition hindered a conducive context for collectivization.

Across the sample, some participants alluded to the possibility that freelancer groups existed on social media and networking sites like Facebook, LinkedIn, and so on. They indicated no specific awareness of these mechanisms, saying that neither were they part of these fora nor had they visited their pages. Participants' reference to these possibilities arose from a general contemporary awareness that websites often sprang up around various issues and groups, with this being no different.

4 EMPOWERING FREELANCERS ON ONLINE PLATFORMS

Notwithstanding the positive views of Indian freelancers on crowdsourced sites as reported in the previous section, the primary data included in this chapter underscore that the platform economy adds to India's disproportionate informal sector (D'Cruz and Noronha 2016), bringing with it challenges specific to its characteristics. To this extent, we argue, it is not a new development which unleashes radical change in its wake—rather, the particularities of its functioning and context are unique. Indeed, apart from reliance (either exclusive or extensive) on technology, geographical dispersion of clients and freelancers, independent contractor status of freelancers (Berg 2016), algorithmic management which allocates and monitors work (Moore 2018) and reliance on reputation and relationality where clients enjoy control (De Stefano 2016), many of the issues platform workers face are similar to those encountered by precarious workers, making “parallel and watertight dimension of the labour market with structurally separated feature and needs” (De Stefano 2016, 2) superfluous. In the context of India, another striking feature of OLMs is the

involvement of the middle class which then brings this group, conventionally associated with standard employment, into the unorganized labour market (D'Cruz 2017). Undoubtedly, given OLMs' necessity of computing equipment and skills and Internet access, usually coupled with proficiency in English (Pongratz 2018), it should not be surprising if OLMs are largely limited to particular classes and locations in the subcontinent. Even so, Schor (2017) maintains that the platform economy increasingly provides access to low-level work for the educated middle class, while simultaneously displacing low-income workers from these occupations, leading to a 'crowding-out' (p. 270) effect.

Indian freelancers on crowdsourced sites face many similar issues to those documented internationally. Indeed, platform workers constitute 'logged labour' (Huws 2016, 7) exposed to 'crowdfleecing' (Scholz 2016, 4) in a digital context which increases inequalities. Moreover, it is well established that algorithms, which underlie the reputational capital of the platform economy, entail criteria which are maintained as undisclosed and proprietary data and are not used as neutral tools but rather are subject to manipulation (Gandini et al. 2016). Obviously, while platform capitalism may benefit owners and stockholders as well as, in the short run, consumers, the value added to vulnerable workers and, in the long run, consumers, is unclear (Scholz 2016). In this context, it would be ideal to accord platform workers full worker status and rights identical to those enjoyed by workers with standard contracts. If this seems too utopian, then securing platform workers' well-being by ensuring wages, working conditions and social rights (Johnston and Land-Kazlauskas 2018) on the lines of those enjoyed by non-standard workers (De Stefano 2016) is appropriate. Keeping the decent work agenda in the foreground cannot be overemphasized. Even so, the initiatives towards regulation and collective action in the West are not yet visible in India, except in the case of the offline economy such as Uber and Ola in specific locations (Tanveer Pasha and Vinay Sreenivasa, personal communication, 5 July 2018).

The limited response to the problems posed by the platform economy in the subcontinent has two implications. First, within India, in keeping with Pattenden (2012), the onus appears to be on progressive pressure groups to catalyse steps to protect the interests of informal workers, harnessing concerted state intervention towards the decent work agenda, charging capital with some responsibility for the working conditions of those who contribute to their success directly or indirectly and mobilizing workers. To this end, progressive pressure groups can bank on the middle-class membership

of freelancers on OLMs, grooming them as allies who, in holding the potential to alter the balance of power between labour, capital and the state (Lerche 2012), can provide a fillip to the cause. Even so, these efforts must address challenges arising from (a) freelancers' romanticization of merit, entrepreneurialism and individualism, elsewhere criticized for their link with the rise of neoliberalism and the retreat of the welfare state (D'Cruz and Noronha 2016) which make humans into 'abilities machines' with 'psychical motivations' (Foucault in Ettliger 2016); (b) the limitations of platform technology linked to Web 2.0 whose networks are competitive and individualistic, thereby precluding cooperation and communication among actors in a crowd (Ettliger 2016); and (c) Indians' apathy towards unions (Noronha and D'Cruz 2009).

Second, across the globe, the dynamics of the platform economy indicate processes completely antithetical to the earlier claims of the democratization of society through cyberspace (Ettliger 2016). The organization of crowdsourced work is orchestrated from the Global North and, though the crowd is global, reflecting the dissolution of presumed boundaries between the Global North and Global South and remunerative flattening of the global workforce (Ettliger 2016), racial biases in selection, wages and interpersonal interactions (D'Cruz and Noronha 2016, 2018) persist. International attempts at regulation and collective action in the pursuit of decent work are complicated by these circumstances. To be successful, international initiatives must embrace "the diversity of the working class in order to overcome its fragmentation" (Moody 1997, 290) and reconcile the disparate interests of workers across the North-South divide (Hennebert and Bourque 2011; Munck 2010) so that the 'voice of labour' (Hennebert and Bourque 2011, 158) worldwide is represented.

In addition, two alternatives are worth considering. On the one hand, Berg (2016) suggests that workplaces revert back to standard employment practices with a dedicated workforce. For workers, this would place them in standard employment relationships, obliterating the uncertainty around work and wages and the indignity of precarious working conditions. Minimum wages, overtime payments, occupational health and safety, social protection, social dialogue and other dimensions of employee well-being would be observed. For employers, the costs of hiring, training, retaining and paying for a permanent workforce would be outweighed by the benefits of continuity (employers need not constantly frame and post jobs and review and select bids) and learning (employers need not freshly evaluate and repeat feedback to new freelancers). Consequently, the workplace would benefit from greater reliability, productivity and effectiveness (Berg 2016).

On the other hand, Scholz (2016) forwards the idea of platform cooperativism, highlighting how worker rights around secure jobs, minimum wage, safety, health insurance, pension funds and so on can be addressed effectively if structural change pertaining to changing ownership and introducing democratic governance of the Internet is pursued, strengthening solidarity in the process. Literature from the pre-digital age shows that, notwithstanding the limitations of cooperatives associated with their existence in a capitalist context, these entities have undeniable importance in securing the interests of their members, being able to offer better protection vis-à-vis ongoing exploitation. In the context of the platform economy, cooperativism entails platforms that are owned and operated by unions, cities and other cooperative entities, embodying democratic values and ensuring benefits to all (Scholz 2016). Providing several existing early examples of platform cooperativism, Scholz (2016) enumerates ten principles of the process, namely ownership, decent pay and income security, transparency and data portability, appreciation and acknowledgement, co-determined work, a protective legal framework, portable worker protections and benefits, protection against arbitrary behaviour, rejection of excessive workplace surveillance and the right to log off.

Addressing the problems of the platform economy in a bid to enhance the prospects thereof is likely to emerge, following a new frontier of digitized resistance whose contours remain to be seen (Ettlinger 2016). Resistance is therefore “neither a foregone conclusion nor an impossibility” (2175). Yet, if a new generation of resistance strategies in the emergent digital landscape is to be effective, the prerequisites are formidable. Digitized resistance needs to reach the global crowd, recognizing wide-ranging subjectivities amid objectifying circumstances (Ettlinger 2016). Even so, this new ‘counter-conduct’ (Foucault quoted in Ettlinger 2016, 2176) must necessarily and successfully discern and address oppressive rationalities.

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Non-standard Employment, Labour Laws and Social Security: Learning from the US Gig Economy Debate

K. V. Ramaswamy

I INTRODUCTION

Informal workers and social security have been at the core of the discourse on Indian labour markets and institutions.¹ Labour markets in India have continued to experience turmoil due to sluggish growth rate of jobs, increasing share of contract workers (loss of good jobs in organized sectors) and the widespread use of workers without written contracts and access to social security. Needless to say, forces of global competition, technological change and industrial restructuring have been the interrelated factors impacting the Indian labour markets. In response to the forces of competition, both global and domestic, firms in India cutting

¹Throughout this chapter, British spelling is used. Consequently, the word 'labour' in the original American sources has been spelt as labour to maintain consistency.

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across ownership and type of organization have responded by hiring more temporary or contract workers and outsourcing production to firms in the informal sector (outside the purview of labour and social security regulations). This has given rise to increasingly wide variety of non-standard forms of work and employment. In short, employment relations in terms of systems of employment and wage contracts, social security benefits and terms of workplace conditions have been in a state of flux. Inter-state differences in labour regulations and ongoing attempt at partial, piecemeal labour law changes have added to the overall complexity. A wide variety of non-standard forms of employment in India have been distinguished very early by Professor Lalit Deshpande like permanent, temporary, *badli*, casual and contract employment. His work has largely focused on forms of employment in the brick and mortar economy like manufacturing (e.g. see Deshpande et al. 2004). However, modernization of labour regulations needs to go beyond the manufacturing factory and encompass the rapidly growing services sector in India. Enterprises in sectors like Information Technology (IT) and IT-enabled services, communication, and transportation are known to follow a complex set of employment relationships. Entry and growth of e-retailers and online markets with players like Amazon and Flipkart and urban transportation service providers like Uber and Ola have added to the complexity of forms of non-standard employment that prevailed in manufacturing and services sector in India. Perhaps more violation of labour regulatory rules and laws takes place in services and construction sector than in the manufacturing sector. Our research has shown that services sector has greater degree of informality than manufacturing (Ramaswamy and Agrawal 2013). The problem of labour law and institutional reform to help improve access to social security benefits has become more challenging. Easily adaptable alternative models have not yet emerged in this difficult area of labour regulation and social security.

In this context, I propose to address the following question. What can we learn from the ongoing and contemporary debate on non-standard employment and labour law in the US gig economy? Gig economy refers to an economy in which there are few permanent employees, and most jobs are assigned to temporary or freelance workers. In the US, the popular press has carried several stories based on the idea that the share of jobs that do not involve a formal employer-employee relationship is large and growing.² The convergence of mobile Internet and Global Positioning

²See New York Times, 12 July 2015. <https://www.nytimes.com/2015/07/13/business/rising-economic-insecurity-tied-to-decades-long-trend-in-employment-practices.html>. Accessed June 10, 2018.

System (GPS) technologies has enabled companies to reorganize their activities so that a greater share of work is performed by individuals who are not employees of the firm. The gig economy and the emergence of precarious nature of work have been the focal point of legal challenges to labour management practices in recent years. Understanding changes in organization of work due to technological advances and its impact on labour law and institutions is of equal importance to India undergoing economic transformation and services-led growth. It is instructive to follow these recent developments of considerable complexity in the US gig economy and understand their implications for the reform of labour laws and social security systems in India.³

2 WHAT IS A GIG ECONOMY?

The word gig refers to a job that lasts for a short period of time, for example, a single musical performance of a musician or a band. In the US parlance, the gig economy refers to segments of the US economy characterized by on-demand employment, where the dominant mode of employment is contractual self-employment (called freelancing in the US context), where workers who work on a short-term basis connect via digital platform technologies. In such jobs, workers often do not have long-term connection to a particular business but are employed to complete specific tasks for a defined period of time. Such workers are also called gig workers. Gig workers are drivers, delivery people, personal assistants, cleaners and cooks, caretakers of pets, babysitters and so on who may get hired through online platforms or websites. This mode of on-demand employment has spread to areas of specialist hiring like lawyers, nurses, doctors, teachers, programmers, sales, advertising and marketing specialists—the list is endless. Uber, the world's largest taxi services company, is the best example of Internet platform-based company in the gig economy. In the US, there are other companies offering similar ride services based on rideshare Apps like Lyft. Other representative companies of the gig economy that deserve mention here are TaskRabbit and 99designs⁴—TaskRabbit specializes in offering search services to find someone to clean one's house or deliver a

³ Similar developments have also taken place in the European Union. See Maselli et al. (2016). We are not going into the European Union cases in this chapter.

⁴ See Maselli et al. (2016) for more examples and discussion of definitional issues of on-demand economy.

product. The company called 99designs connects graphic artists and website creators with businesses or entrepreneurs who may be in need of design work. It is a crowdsourcing company which focuses on artistic work, such as logos, clothing and illustration or packaging services. Companies which primarily operate on digital platform generally eschew employing traditional regular employees. They are in a sense services companies without employees! In fact, gig workers are said to be employed ‘by an algorithm’ (Kennedy 2017).

2.1 *Size of Contingent Work Force*

What is the share of such gig workers in the total employed labour force in the US? Given the woolly nature of definition of workers in the gig economy, getting reliable estimates of workers has turned out to be very difficult.⁵ However, it is possible to get approximate estimates of the magnitude of contingent workforce. Contingent employees are defined broadly as anyone not in a standard full-time employment relationship. Contingent workers are in temporary and/or non-standard work arrangements. The contingent workforce is a broader category of workers than the gig economy, representing the growth of alternative work arrangements in the US.⁶ According to one study, workers who provide services through online intermediaries, such as Uber or TaskRabbit, accounted for 0.5 per cent of all workers in 2015 (Katz and Krueger 2016). A US government agency in its recent report estimated that approximately 40 per cent of workers are contingent employees (USGAO 2015). However, different government agencies adapted definitions that actually varied in terms of inclusion or exclusion of certain types of contingent workers. The US Bureau of Labour Statistics (BLS) used the concept that a contingent worker is anyone for whom an implicit or explicit contract for a continuing work relationship does not exist (Abraham et al. 2017). The US government report stated “The size of the contingent workforce can range from less than 5 per cent to more than a third of the total employed labour

⁵A 2014 survey conducted by The Freelancers Union identifies more than 53 million Americans, or roughly 34 per cent of the labour force, doing at least some freelance work. (Cited in Hamilton project 2016).

⁶Katz and Krueger (2016) have reported a significant rise in the incidence of alternative work arrangements in the US economy from 2005 to 2015 based on a survey of contingent workers in 2015. The percentage of workers engaged in alternative work arrangements is estimated to have increased from 10.7 per cent in February 2005 to 15.8 per cent in late 2015.

force, depending on widely varying definitions of contingent work. Based on GSS data, we estimated that a core group of contingent workers, such as agency temps and on-call workers comprised about 7.9 percent of the employed labour force in 2010” (USGAO 2015, 3). The rising numbers of contingent workforce, though the actual numbers are still much debated, have encouraged some observers to use terms like the ‘new permanent temporary’ jobs in the labour market.⁷ In short, the standard employment relationship understood as relation between well-defined employer and a worker is widely believed to have lost much of its fundamental significance.

Increasing market competition, organizational strategies and technological change have together led US firms to look for ways to save wage and social security benefits. This has created what David Weil (2014) has called a *fissured workplace*. The analogy is to a rock with a fracture which deepens and spreads over time and the word fissure refers to something which has deep lines or cracks. The traditional work-organization system with well-defined labour relations and social security is referred to as the bedrock on which people depended for secure employment conditions. He has argued convincingly that during the last three decades beginning in the 1980s, the workplace has fissured.

3 DRIVERS OF WEAKENING STANDARD EMPLOYMENT RELATIONSHIPS

Several factors have been shown to be responsible for the deteriorating workplace condition in recent years. Three important factors elaborated by David Weil (2014) deserve attention, and their relevance in the Indian labour market context will be obvious.

(a) **Labour Outsourcing**

One of the key reasons for the fissuring is because the workplace has become the subcontracted workplace. In recent years, leading US companies have increasingly resorted to outsourcing (labour subcontracting) large numbers of services done previously in-house. This includes janitorial services (janitorial services relate to

⁷A working paper by Jackson, Looney and Ramnath at the US Treasury Department contains detailed estimates of individuals who earn income outside of the employee-employer relationship, for example, not from wages. See Jackson et al. (2017).

commercial property cleaning, including professional offices and educational, medical and industrial business cleaning). Some commercial janitorial services can include maintenance or property management services. Other examples are payroll administrators and accounting services, security guard specialists and information technology service workers, and legal and marketing services and sales services. Instead of directly employing temporary workers, many large firms have also used other agencies or supplier firms called 'temping firms'. This strategy of outsourcing has been pursued to achieve savings in labour costs of providing these services. Companies save costs of social security and health benefits by employing independent contractors instead of having regular employees. They also save on wage bill because of lower wage rates paid to outside workers. Subcontracting is not a new method of production organization. It has existed in industries which required specialists or specialized services for different stages or components of the production process, for example, in construction, mining and garment industries. David Weil (2014) argues that in recent years, the model of subcontracting has begun to be applied even to the core activities of the firm.

(b) **Franchising**

Franchising is an old form of organization used by companies to improve distribution of products. In modern US economy, franchising has been used to control labour costs in firms in services sector. In many services like fast food, janitorial services and hospitality industry, labour costs have relatively a higher share of costs. In these three representative industries, prices offered by the franchisor to franchisee have been observed to be at such levels that force the franchisee to violate the labour standards and pay their workers less than the mandated minimum wages. These franchisees are reportedly characterized by widespread violation of labour standards like provision of health benefits, unemployment insurance, payroll taxes and non-payment of minimum wages, among others. Large demand for these types of services combined with the elastic supply of service providers and their large turnover rates (i.e. high turnover rates among franchisees) have been argued to create incentive for non-compliance of labour standards.

(c) **Component Subcontracting**

Third factor that has contributed to the fissured workplace is the increasing practice of outsourcing of production of parts and components by the leading companies in the manufacturing value chain. In this instance, production of components previously produced in-house has been moved out of the firm but to other firms within the US. This has been accentuated by the Japanese method of lean manufacturing first introduced in the automobile industry and later followed by other industries. Distribution of manufactured goods to meet delivery deadlines has given prominence to transport companies or logistic companies. These in turn have outsourced transport activity to ‘independent contractors’, who are essentially drivers having their own vehicles. They do not get regular wages but residual income after paying all the costs of transportation. This is known to have been practised by FedEx among others, a precursor to Uber, the modern-day leader of the gig economy.

3.1 Employee Versus Independent Contractor Debate

The US Department of Labour (USDOL) administers and enforces more than 180 federal laws. (see www.dol.gov/general/aboutdol/majorlaws for details). Two major federal laws may be mentioned here. They are (a) The Fair Labour Standards Act, (FLSA) 1938 and (b) The Occupational Safety and Health (OSH) Act, 1970. The FLSA prescribes standards for wages and overtime pay, which affect most private and public employment. The FLSA sets minimum wages and requires employers to pay their workers overtime if they work more than 40 hours a week. In addition, states within the US have their own laws and regulations governing workplace safety and injuries, social security benefits, unemployment insurance, employment taxes and minimum wages. Each of the state laws (e.g. Wages and Hour Law in California, Florida, etc.) present their definition of employees and independent contractors or leave it open for the administrative authorities to define them with reference to the common law. Consequently, a worker could be classified as an employee by one state agency but considered to be an independent contractor by another agency!

Modern employment law has principles originating in the traditional ideas of master-servant relationship.⁸ The workers or employees get the mandated protection under these federal and state laws provided they belong to the legal category of employees. In other words, access to coverage under labour laws depends on the identification of an employer-employee relationship in a particular context. Similar to the Indian labour law controversy, the US labour law is found to encounter the difficult problem of definition of employees. The definition of employees varies between federal laws and state-level labour laws (see Carlson 2001 for a good discussion of these issues). A well-known example in the US context is the FLSA, which defines ‘employee’ as ‘any individual employed by an employer’. An ‘employer’, the Act further elaborates, is a person “acting ... in the interest of an employer in relation to an employee” (Carlson 2001, 296). The circularity in a legal definition is rather puzzling and continues to be a source of litigation.⁹

In the context of gig workers, the relevant distinction is between employees and independent contractors. Gig economy companies or Internet platform companies like Uber are found to have employed persons (read drivers in the case of Uber) and consider them as non-regular employees by issuing 1099 tax form. A 1099 form is the form that the Internal Revenue Service (IRS) of the US government (Equivalent of Income Tax Department of Government of India) requires businesses to use to report payment for services of non-employees (Smith and Leberstein 2015). To all other workers who are regular employees, businesses must issue a W-2 form and make proper payroll withholdings for each tax year. It has been estimated that as many as 30 per cent of employers across US industries misclassify their employees as independent contractors and give them a 1099 instead of the required W-2 form.¹⁰ In effect, employers fail to withhold payroll taxes for misclassified employees by giving them the form called 1099-MISC (‘MISC’ is short for Miscellaneous Income). The form 1099-MISC is an IRS form for those workers falling under the classification ‘independent contractors’. This difference created a loophole

⁸ See Singh (2015) for a detailed and critical discussion on the definition of a worker in the Indian labor law and the judicial interpretations.

⁹ Discussion in this paragraph is borrowed from Carlson (2001).

¹⁰ See Fact Sheet 2016 of The Department for Professional Employees, a coalition of 24 national unions in the US, available at their website <http://dpeafcio.org/programs-publications/issue-fact-sheets/misclassification-of-employees-as-independent-contractors>, accessed on 2 June 2018.

exploited by the gig economy companies. By having non-regular workers, the platform companies can lower their labour costs up to 30 per cent (Hill 2015, 4). What causes this labour cost savings? Firstly, companies do not have to pay employment tax for independent contractors. Secondly, the company is not obligated to observe minimum wage and overtime standards; not responsible to pay for health benefits, social security, unemployment or injured workers compensation, lunch or rest breaks, overtime, disability, paid sick leave to those workers who file tax return form 1099 (Hill 2015, 4). They are also denied trade union bargaining rights under the National Labour Relations Act (NLRA 1935). The 1099-MISC tax law provision or rule is an obvious incentive for platform companies to hire non-regular employees and designate them as independent contractors. This practice of platform companies has given rise to the term '1099 economy'.

In the past, companies like Microsoft and FedEx have been known to have used the 1099 method to save labour taxes through the misclassification route. In the beginning of the 1990s, the US Internal Revenue Service (USIRS) Department examined the claim of Microsoft and found that those workers first classified as 'independent contractors' were actually employees. Microsoft agreed to issue retroactive W-2 forms to pay overdue taxes to the government and pay overtime compensation as required by employment and labour laws (Carlson 2001). Similarly, the courts in 2014 decided that FedEx has misclassified its Ground and FedEx Home Delivery pickup and delivery drivers as independent contractors and paying them as independent contractors. The court said that FedEx controlled the drivers and that they were independent contractors in name only (Wood 2015). Later, FedEx agreed for US\$228 million settlement with the drivers in California. In the case of FedEx, the terms of contract with its employees were shown to satisfy the control test. The control test or the economic realities test has been the standard common law test for determining who is an employee or independent contractor since 1989 (see more on this later).¹¹ The control test emphasized whether the employer exercised the 'rights to control' over means and manner in which the worker performed his work among other listed factors. It is also referred to as the 'Borello test', following the judgement in the case involving a company named S.G. Borello & Sons, Inc. versus the Department of Industrial Relations in the State of California.

¹¹ Also see Carlson (2001), Kennedy (2017) and Izvanariu (2016) among others.

The USIRS, in response to the continuing misclassification problem, has issued detailed instructions to employers regarding how to determine whether an individual is an employee or an independent contractor (USIRS 2018). The department has taken pains to emphasize, following federal court judgements that in any employee-independent contractor determination, all information that provides evidence of the degree of control and the degree of independence must be considered. The three key facts that provide evidence of the degree of control and independence fall into three categories, namely behavioural control, financial control and the type of relationship of the parties (USIRS 2018, 7).

- Behavioural control: facts that show whether the business has a right to direct and control how the worker does the task for which the worker is hired.
- Financial control: facts that show whether the business has a right to control the business aspects of the worker's job.
- Relationship facts: facts that show the types of relationships between the contracting parties, for example, written contracts; whether or not the business provides the worker with employee-type benefits, such as insurance, a pension plan, vacation pay, or sick pay; and the extent to which services performed by the worker are a key aspect of the regular business of the company among other facts.

Different states have enacted 'misclassification' statutes to statutorily determine whether an employee is misclassified as an independent contractor (Sprague 2015). However, many of these laws are with specific reference to particular industries like construction or health or specific aspect of labour like worker compensation. In 2014, the USDOL gave US\$10.2 million to 19 states to combat contractor misclassification and the objective of federal funds was to improve labour administration capacity building in various states of the US. In other words, the aim of USDOL is to encourage improvement of misclassification detection and enforcement initiatives (Izvanariu 2016). The misclassification problem is central to the innumerable legal disputes in the case of App-based ridesharing companies like Uber and Lyft. We discuss the Uber case to highlight the problem of legal interpretation of labour rights in the gig economy.¹²

¹²Other cases involve companies like Lyft and Grubhub among others. See Sprague (2015) for a discussion.

3.2 *The Uber Case*¹³

The company Uber claims that it provides taxi services through its digital platform and connects people seeking transport services with providers of such service called drivers. Uber does not own any vehicles. Drivers ('ride-share workers' in US parlance), who work with their own vehicles under the Uber logo, provide transport services on-demand to the consumers connected through the Uber App. All drivers are classified by Uber as independent contractors and are not considered as regular workers. Uber operates in different states of the US. These states have interpreted the status of drivers differently even though the basic facts of the case have not undergone any change. The drivers of Uber taxis have claimed that they have been wrongly classified as independent contractors, and several individual drivers have gone to court asking for proper compensation in terms of unemployment insurance, overtime and minimum wages. Further, they have filed multiple class actions suits in different states.¹⁴ Drivers have claimed that Uber exercises substantial control over their work. Courts have applied the standard control tests and have arrived at different conclusions. An interesting example may be cited here following the analysis of Izvanariu (2016). In the state of Oregon and California, labour commissioners have ruled, following the application of economic realities test, that Uber drivers are employees not independent contractors and therefore are entitled to claim standard benefits available to those defined as workers. However, in the state of Florida, the courts have come to the opposite conclusion and have concluded that Uber exercise minimum control and therefore drivers should be regarded as independent contractors (sellers on the platform setup by Uber). In other words, courts in Florida have upheld the claim of Uber (consistent with the agreement between the drivers and the company Uber) that the drivers are independent contractors. We may add to this interesting example a very recent judgement in the state of Philadelphia. In this instance, drivers had filed the lawsuit in 2016 that claimed Uber-Limo (High End Taxi in the US) drivers in Philadelphia were Uber employees and were thus entitled to

¹³This account is based on the discussion in (Izvanariu 2016), who has discussed the ride-share company cases in greater detail. Several other legal scholars have also discussed the problem of misclassification problem in ride-sharing companies like Uber and Lyft.

¹⁴A 'class action lawsuit' is one in which a group of people with the same or similar injuries caused by the same product or action (say employment practices) sue the defendant as a group. Most class action suits are resolved through settlements in the US.

minimum wage and overtime under the FLSA. Drivers had contended that the company exercised significant control over them, each time they were signed into the Uber App, for example, removing them from the App whenever they failed to accept a certain amount of rides, or deactivating drivers who fell below certain customer satisfaction ratings. In contrast, the federal judge is reported to have said that just because the company exercised some control did not mean the drivers were employees. The judge in this case likened the Uber drivers' employment situation to a carpenter, or a plumber, who is engaged to complete a renovation project for a homeowner. Therefore, the verdict is that Uber-Limo drivers are not employees under the US FLSA (Edelstein 2018; Mitchell 2018). However, this does not mean that the issue of misclassification by platform companies has been resolved. On the contrary, a recent judgement by the Supreme Court of California seems to have contributed to the beginning of a new chapter in the misclassification problem of platform companies.

4 WHO IS AN EMPLOYEE AND HOW TO PROVIDE SOCIAL SECURITY BENEFITS TO EMPLOYEES?

On 30 April 2018, the Supreme Court of California delivered a judgement redefining the criteria followed in the determination of status of employees. This judgement is in the context of a case filed by a group of delivery drivers against the courier services company called Dynamex in California. The company Dynamex in 2004 reclassified all drivers as independent contractors (who were classified as employees earlier!) with the intention to achieve cost savings. As we noted earlier, the courts have followed the control test or the economic realities test to determine the status of an employee. The group of employees alleged that the company has misclassified them and violated the wage orders of California's Industrial Welfare Commission (IWC) and other applicable labour codes. The Supreme Court of California in its judgement has rejected the Borello test and has applied the 'ABC' test to resolve the problem of classification of employees.¹⁵ The ABC test involves three conditions to be checked to decide whether a worker is an independent contractor. They are as follows: *(a) that the worker is free from the control and direction of the hirer in connection with the performance of the work, both under the contract for the*

¹⁵Deknatel and Hoff-Downing (2015) mention that the State of Massachusetts used the ABC rule way back in 2004.

*performance of such work and in fact; (b) that the worker performs work that is outside the usual course of the hiring entity's business; and (c) that the worker is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed for the hiring entity.*¹⁶ The ABC test is widely regarded as more worker-friendly test as against the Borello test. The California Supreme Court judge, following a detailed analysis of application of ABC test to the facts of the Dynamex case, has upheld the claim of delivery drivers of Dynamex that they should be considered as employees. However, this judgement prescribing the ABC test is applicable only to disputes under the wage order claims and may not be applicable to other claims under a different section of labour law like reimbursement of employee expenses or unemployment insurance (Kim 2018). Other attorneys have expressed the opinion that there are likely hundreds of other misclassification cases pending that will be affected by the California Supreme Court decision, and other states in the US will begin to use the Dynamex case as the standard reference (Mulvaney 2018). It has not resolved the misclassification problem completely as the rules may not apply in other jurisdictions, and the application of 'ABC' test could potentially raise another set of interpretation issues.

The upshot of this discussion may be summarized as follows:

- (a) The US courts will continue to grapple with the problem of interpreting traditional labour laws in the context of the gig economy, and the issue is unlikely to be resolved in the near future. Meanwhile, more workers in America are losing their status of regular employees and are found to take up the role of independent workers. They are disconnected from any single company or workplace or industrial establishment. Workers in the gig economy are often found to work with multiple employers.
- (b) The task of legal decision-making has turned out to be a complex and controversial exercise in the case of platform companies. The federal policymakers and administrators have not been able to solve the problem of misclassification and the stakeholders including the US courts have been demanding new legislative initiatives from the federal government. The federal government has not responded to such demands for labour-related legislation.

¹⁶The original source for this information is Kim (2018). However, it is available in many other reports not cited here.

- (c) The shifting criteria to determine the legal status of employees induced by court decisions impose costs on the US economy and businesses for several reasons.¹⁷ First, it creates uncertainty of business decisions with respect to current classification of employees adopted in businesses. Second, the potential uncertainty could act as disincentive for businesses to create a variety of flexible alternative job opportunities.
- (d) A significant social welfare cost is that workers with non-standard employment continue to suffer from lack of access to core components of the workplace benefits like healthcare, social security and other compensatory benefits available to regular employees.

4.1 *Alternative Solutions to the Problem*

Not surprisingly, finding a workable legislative and legal solution to the problem of providing social security benefits to gig workers poses great challenges. One of the suggestions made by academic scholars is to create a third category called ‘Independent Workers’ in the labour laws (Seth and Krueger 2015).¹⁸ According to them, “Independent workers would receive some protections and benefits of employees, such as the right to organize and the requirement that intermediaries contribute half of Social Security and Medicare payroll taxes, but not others, such as time-and-a-half for overtime hours” (Seth and Krueger 2015, 27). Their argument is based on the difficulty of attributing work hours when the gig workers use multiple Apps simultaneously and accept work from several employers (Seth and Krueger 2015, 13). This idea expectedly has received several criticisms. First, the lines between the three categories, namely employees, independent contractors and independent workers will remain as uncertain as before (Kennedy 2016). Second, platform companies have the capacity, it is argued, to track work hours and to administer minimum wage programmes (Eisenbrey and Mishel 2016).

¹⁷ Points in this paragraph is largely borrowed from Kennedy (2016, 2).

¹⁸ Seth Harris of Cornell University and Alan Krueger of Princeton University propose the creation of a new legal category of workers, to be called ‘independent workers’ in their working paper commissioned by the Hamilton Project at the Brookings Institution. See Seth and Krueger (2015).

A more appealing suggestion is that of Steven Hill in a report prepared for NEW AMERICA, a non-profit organization based in Washington, D.C. (Hill 2015). Steven Hill draws our attention to the multi-employer plans often found in industries like construction, mining and in Silicon Valley companies. Workers say that operating engineers who operate, maintain and repair heavy construction equipment to build the nation's highways and power plants (broadly in US construction industry), for example, work for many employers in a year associated with different projects. How to provide social security benefits to workers in such situations? The guild union of operating engineers has an agreement with their multiple employers such that each employer pays a set amount per each worker, pro-rated according to the number of hours the employee works for that employer (often called an 'hour bank' system). Those salary deductions are set aside in a social security fund. The specific amount paid by the employer is based on prior agreement (could be equal to US\$3–4 per each hour worked by each employee), and the constituted fund is governed by a board of trustees, with equal number of employer and employee representatives appointed as trustees. Another example is the labour union, the International Brotherhood of Teamsters (Truck Drivers), which maintains the largest multi-employer-defined benefit pension plan in the US. This multi-employer plan is designed to allow union workers like truck drivers, vegetable packers, janitors and so on, among other workers, to avail of a pension benefit system even with frequent job changes.

Steven Hill argues that this idea can be easily extended to the realm of the gig economy workers by creating 'Individual Security Account' (ISA) for each worker. When companies like Uber, TaskRabbit and other similar businesses hire independent workers or freelancers (self-employed persons), they should be made to pay a few dollars per hour as social security contribution that is invested in an ISA for each worker and used for paying pension, buying health insurance and so on. In short, the created ISA would be the worker's safety net and can be easily tracked using the personal identity number. This is a very practical suggestion because *the legal question of whether the worker is actually an employee of a particular company or an independent contractor becomes irrelevant*. In both cases, the employer must allocate funds for social security benefits and paid into the ISA of the concerned worker. The ISA method is an effective method to close the 1099/independent contractor loophole that we discussed earlier at length. In other words, what Steven Hill advocates in a sense is

extending legal parity to 1099 workers and part-timers so that all workers enjoy the level playing field with respect to social security benefits. The cost of implementing this idea, including administrative cost, is shown to cost less than US\$2 per hour per employee. It is argued to cost less compared to the current entitlements of the regular employees (W-2 form mentioned earlier).

Portability of the safety net is the key conceptual idea.¹⁹ It has been reported that New York is at the forefront of a movement in favour of *portable benefits fund*. The New York City Council is reported to have been preparing to introduce a bill that would provide Uber and other taxi drivers access to portable benefits for healthcare, disability insurance and life insurance. Similarly, New York State legislature is reported to have considered legislation that would allow companies to classify their workers as independent contractors so long as they (a) contributed 2.5 per cent of each transaction to a portable benefits fund, (b) state in the contract that they are independent contractors, (c) allow workers to choose their own schedules and work for competitors and (d) provide that workers pay the taxes and provide their own tools (Eidelson 2017). The grand details of such a plan need not detain us here as what matters is the relevance of the idea and what we can learn from the contours of the worker debate in the US. We can turn briefly to the relevance of all these in the Indian context of non-standard employment and social security provision to informal workers.

5 IMPLICATIONS FOR INDIA

India is currently experiencing rapid emergence of platform-based services companies in different sectors apart from those in urban transportation (Meru, Ola, Uber etc.). A large number of start-ups catering to home services have been set up in India in the last few years. These include platform-based companies that provide services such as beauty services, laundry, home cleaning, plumbing, wedding planning, photography and fitness instruction like UrbanClap, Housejoy and so on.²⁰ It has been

¹⁹Portability idea is also suggested by Lawrence Summers. See Hill (2015) for further details.

²⁰See Live Mint story available at <https://www.livemint.com/Companies/ck6h9KKD-L9Aw1SCgzvMLRM/The-building-of-UrbanClap-one-ondemand-service-at-a-time.html>. Accessed 14 June 2018.

reported that India is the second country in the world where freelance work is on the rise after the US.²¹ In traditional brick and mortar industries, the widespread use of non-standard employment practices by companies in search of flexibility is well documented. Hiring contract workers in order to sidestep obligations of the Industrial Disputes Act 1947 (IDA 1947) have been rigorously proved (Ramaswamy 2015). Ambiguity due to variations in definitions of who is a worker or employee in different labour laws and its consequences for worker rights has been analysed in great detail (Shyam Sundar 2011; Singh 2015). It suffices to point out certain central difficulties of determining employment relationship under the current labour laws and the provision of social security benefits under the central government schemes like employees' provident fund, pension and insurance schemes in the context of platform-based companies.

- **Employment Relationships:** Applicability of labour laws like the IDA 1947 and Contract Labour (Abolition and Regulation) Act 1970 (CLAR 1970) and other related labour laws like Industrial Employment (Standing Orders) Act, 1946, requires the existence of employment relationship. In the case of Internet platform companies in India, for example, Ola (Uber competitor in India), existence of such employment relationship is under dispute. Some problems can be highlighted. First, workers who work for Internet platform companies are designated as partners or consultants with no assurance of fixed pay or earnings or guaranteed number of employment hours.²² For example, Ola advertisement for driver enrolment says: 'work at your convenience'. Applicability of definition of 'workmen' under the IDA 1947 in such cases could raise difficult problems. For example, the applicability of definition of workman in section 2(s) will be contested as in several other contexts in the past. Another related dimension would be the determination of workmen with continuous service (240 days or 120 days' threshold in particular Chapters of IDA like Chapter 5A or 5B) to claim compensation among other issues. Second, platform-based companies do not take responsibility for any injuries or accidents for workers in the course

²¹ "India is the second country in the world where freelance work is on the rise after the US", says a report by Truelancer, a global freelancing marketplace (Khetarpal 2016).

²² See the discussion by Alok Prasanna Kumar (Kumar 2017a) in "Analysis: Ola's contract with drivers shows they've got a raw deal".

of performing their duties (drivers in the case of Ola). They are not entitled for any medical benefits or assistance or insurance. Third, how to define and monitor conditions of service? The contract of services agreements signed by the service providers (drivers sign ‘Master of Service’ agreement in the case of Ola) are found to impose unilateral change of conditions of service by the platform company.²³

- **Social Security Benefits:** The Employees’ Provident Funds and Miscellaneous Provisions Act, 1952 (EPF ACT), is a central government legislation, which introduces the schemes for provident funds, pension funds and deposit-linked insurance funds for employees working in factories and other establishments. The EPF Act applies to all factories and institutions where 20 or more persons are employed.²⁴ The schemes under the EPF ACT are administered by the Employees Provident Fund Organisation (EPFO). Both the employers and employees are required to contribute to the provident fund at the rate of 12 per cent of the wages of each worker (10 per cent in other specific industries). Those employees with wages of ₹15,000 or less (recently increased to ₹21,000) have the obligation to subscribe to the provident fund. Contributing workers to the provident fund Scheme are also eligible for the pension scheme.²⁵ Let us first note the problem of employment relationship based on definitions under the EPF Act. An employee under the EPF Act is defined as one who is employed for wages in any kind of work and includes any person employed through a contractor in connection with the work of the establishment. In other words, EPF Act is applicable to contract workers. An employer is defined as persons having control over the ultimate affairs of the establishment. In short, the applicability of EPF Act assumes the existence of standard employment relationship. How to specify the eligibility condition in terms of monthly earnings when the platform workers’ earnings vastly fluctuate month by month? How to define the duration of employment when platform workers switch employers every day?

²³A case is pending in Delhi High Court filed by Delhi Commercial Driver Union that has raised the question of workman status of Ola and Uber Drivers (Mandhani 2017).

²⁴The details are available at the EPFO website. https://epfindia.gov.in/site_en/For_Employers.php?id=sm1_index.

²⁵The pension scheme is financed by transferring 8.33 per cent of the employers’ contribution from the provident fund.

The problem of duration of employment to apply EPF ACT is not yet effectively resolved in the case of building and construction industry workers. This will be much more serious in the case of platform-based workers who are more mobile over time and perhaps spatially as well. Enforcement of EPFO rules to platform-based companies could in all probability lead to litany of court cases on several grounds.

One could draw attention to the more general problem of EPF Act in the case of unorganized services sector. Do the current EPF rules and procedures guarantee the deduction of PF and the payment of deducted amount to the account of all types of contract workers? The answer is obviously no because a large majority of workers in the unorganized sector in India (including manufacturing, services and construction) work without written contract. A large number of enterprises in the unincorporated non-agricultural sector have been reported to have not registered with the EPFO. What happens to those with supposedly written contracts or employed by companies using supplier firms or temping firms? The organizations are supposed to ensure that the contractors are registered with the EPFO before awarding contract. Violation of this rule is not uncommon despite circulars issued by the EPFO. It has been recently reported that the Delhi High Court has made certain observations in the case of *Group 4 Securitas Guarding Ltd v Employees Provident Fund Appellate Tribunal & Ors* and held that when the contractor is an independent legal entity with a large workforce and engaged in providing services to various clients, the onus to make provident fund is not on the principal employer nor will a principal employer be held liable in case of non-compliance (Employment Law Alliance 2013). The Delhi High Court relied on the definition of employer under section 2(e) of the PF Act, wherein an employer is defined as a person having “ultimate control over the affairs of the establishment”. The contract worker supplier firm, it is argued, operates as an independent entity providing services to various establishments across India. Therefore, the agreement between manufacturing company and the supplier firm is one of employer and employer type and not one of between contractor and employer type.²⁶

²⁶ See also the article written by a Supreme Court Advocate Kumar (2017b).

Several examples of this nature can be cited or imagined easily to arise to show the precarious nature of non-standard employment in the Indian services sector. Consider the following hypothetical example. Company XYZ (Principal Employer) has outsourced transport services for its employees and staff to a company EFG (Contractor Firm). EFG has in turn outsourced it to say 30 different vehicle owners cum drivers (30 independent owner-drivers). The contractor EFG has not hired any manpower, but they have engaged vehicles with drivers to deliver certain services, and it has refused to provide provident fund (PF) or employment insurance benefits under the Employment State Insurance (ESI) scheme to the driver-cum-owners. At the same time, the principal employer XYZ has not followed the law EPF ACT or the Contract Labour (Regulation and Abolition) Act (CLRA) of 1970. It can be argued that in this arrangement, there exists no employment relationship in the legal sense (master-servant) between XYZ and the drivers. Consequently, no payment under the expenditure head 'wages' has been incurred. It is therefore only a contract for service but not contract of service. Correspondingly, the company EFG has contract with the drivers, which is only a contract for service. Therefore, PF or ESI deductions need not be made or non-compliance is wide spread. The Uber case and the US debate can be very easily seen to emerge as exactly parallel situations.

What do we learn from this ongoing and fractured debate? Two broad conclusions appear to emerge. First, technological change is very likely to weaken employee bargaining strength even further in addition to globalization. Applicability of traditional labour laws is likely to encounter more serious legal challenges in India than in the US context. Second, social security systems need complete overhaul to accommodate changes in organization of work due to convergence of technologies. A positive outcome is that benefits can be delivered more effectively using the mobile-Internet technologies provided we adopt innovative changes in laws governing social security benefits like portability. Some of them are already operational like Universal Account Number (UAN) to be allotted by the EPFO. Technological change and on-demand services economy will further accentuate the problems facing India's labour regulations and social security system.

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Redemption of Building and Construction Workers in India: Will-O'-The-Wisp?

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I INTRODUCTION

The history of construction workers dates back to the dawn of civilization. The ancient and historical monuments bear mute testimony to this fact. The amazing structures like pyramids, Greek and Roman monuments, Mayan temples in Mexico, the Great Wall of China, Angkor Vat in Cambodia, ancient Indian temples and other constructions stand even today as marvels of architecture and magnificent skills of construction workers. Alas, for centuries the construction workers have been exploited! In contrast, the factory workers whose history can be traced back to the industrial revolution, that is, barely two centuries back, have been the beneficiaries of all the labour legislations.

In this chapter, I have made observations, based on my experience as a joint labour commissioner in charge of construction workers' welfare, to highlight the vulnerability of the workers in the construction industry which is hailed by economists and policymakers alike as high employment-generation industry in the post-reform period. The construction sector is

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said to have generated nearly one-third of new jobs added in the Indian economy from 1990–91 to 2015–16 as compared to just over one-fifth of the new jobs created from 1980–81 to 1990–91, and in 2015–16, it accounted for 14.40 per cent of the total workforce estimated (Bhattacharya 2018). In January–July 2014, it employed 56.2 million estimated workers (Kapoor 2017), and it is well known that more than 90 per cent of the total employment in this industry perform casual work and a good majority of them are migrant workers with poor human capital characteristics (e.g. see Srivastava and Sutradhar 2016).

2 EMPLOYMENT CONDITIONS OF CONSTRUCTION WORKERS

The occupations in the construction industry range from unskilled labourers to highly skilled craft workers. Typically, they have a hierarchy with gang leaders having the highest status. Women are at the bottom of the hierarchy. There exists widespread contract labour system. The construction workers are employed on a project basis with no insurance for the periods of unemployment. Earnings are low and irregular. They are often hired on short-term contracts or as day labour. As a result, there is no assurance of continuity or regularity of livelihood for them. Every morning, they gather at select points/*nakas* (junctions) in a geographical location to secure work from contractors who are out to recruit the construction workers. The contractors often exercise their whims in the selection of workers for that day or a specified period. Many times, they secure work only for 10–15 days in a month. Piecework is predominant in this sector. The *thekedars* (contractors), agents and the middlemen recruit them from various villages in states like Bihar, Jharkhand, Odisha and Chhattisgarh for work to be done in the metropolitan cities. Hence, most of the construction sector workers are migrant workers. These agents in turn hand these workers to the on-site contractors for a commission. Put bluntly, these workers are literally sold to the contractors who in turn engage them on the construction sites.

2.1 *Living Conditions at Worksites*

Owing to the project-based employment, be it road construction or others, the workers live at or around the worksites with poor basic amenities. Needless to emphasize the fact that the living conditions are far from

desirable. They live in huts made up of tarpaulins (a large piece of heavy waterproof cloth used as a covering) or tin sheets which are makeshift structures. Since they live at or around the worksites, the surroundings are often dirty and filthy. The habitats are overcrowded, ridden with mosquito, pests, rats and rodents. Drainage system does not exist. Often, there is no running water in the colony. Hence, water is stored in huge plastic tanks. Open defecation is common as latrines are a luxury in the makeshift living structures. For women, the bathrooms are small spaces made up of jute cloth erected with bamboos, and there is hardly any shelter to hide their modesty. Cooking is done with *chullas* (a small earthen or brick stove) using wooden debris material. Their children are exposed to all kinds of infections, and it appears that they do not avail the state-initiated immunization doses. Since they may not go to schools, they do not avail also of State-provided Mid-Day Meals Schemes in several regions. Women workers often go to work leaving children playing on sand or mud kept for construction as generally crèche facility is not extended to them. Schooling is a far cry. Since the wages are meagre and the construction workers' families are often large, the working parents allow their adolescent children to work in the same or other construction sites as helpers to maximize their family earnings.

2.2 *Building and Other Construction Workers' Rights*

The construction industry is notorious for denial of basic rights of workers, especially the freedom of association of workers. As a result, collective bargaining is almost non-existent in this sector. Wages of workers are decided by the contractors, which in turn are determined by the commission the contractors desire to derive out of the payments made by the builders. The aspects of labour processes in the construction sector deserve a separate treatment. From the time the workers are 'secured' from the villages to the organization to the handing over of workers at the worksite, all the economic agents such as middlemen, contractors, supervisors and builders mete out harsh treatment to the hapless workers. It is nothing but human trafficking. The relations between workers and these agents are driven by maximizing rewards of these agents even at the cost of the workers, and hence all kinds of bad treatment—both physical exploitation and arbitrary termination of jobs—abound in this industry. As the workers do not enjoy the right of freedom of association, rights that derive from this, such as income security, employment security, skill security and social security, are

often denied. There is no lay-off system. At the closure of the project, workers are not paid retrenchment compensation or gratuity wherever even eligible. Terminations of employment are highly arbitrary. There is no remedy available for all these injustices because the provisions of Industrial Disputes Act, 1947, are not applicable to these workers, whereas they are available even to hotel or grocery shop workers if they are arbitrarily terminated. How paradoxically discriminatory! Their wages are held back and only an advance is given every week, promising them that the balance amount will be paid to them at the time of termination of the project which compels the worker to continue to work much against his wishes. This is a modern form of bonded labour system, a neo-bondage serfdom.

2.3 *Accidents*

Construction is an accident-prone industry. Almost every day, accidents in one or other worksite which are fatal or non-fatal, keep occurring. Very few big accidents get noticed where compensation to workers or dependents is paid. Majority of the accidents are hushed up and no compensation is paid in such cases. Rarely medical treatment is given for injuries. The Labour Bureau presents statistics on industrial accidents relating only to manufacturing, mines and railways and leaves out other important sectors like construction, agriculture and plantations. Hence, it is not possible to present a statistical picture of accidents in the construction sector. However, there are enough media stories to convey the grave and perilous conditions of work in this industry.

2.4 *Legal Framework Governing the Building and Other Construction Workers*

Statutes like Minimum Wages Act, 1948; Payment of Wages Act, 1936; Contract Labor (Regulation and Abolition) Act, 1970; Employees' Compensation Act, 1923; Child Labour (Prohibition & Regulation) Act, 1986; Employees' Provident Fund (EPF) and Miscellaneous Provisions Act, 1952; Equal Remuneration Act, 1976; and Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 are applicable to the construction industry and to the workers working therein. But the enforcement of the provisions of these enactments with respect to the construction industry is seen to be sporadic and not rigorous. The most appalling fact is that in majority of cases, no basic

record of these workers is maintained by the employers. The notices pertaining to their terms of employment are rarely displayed at the sites which are mandatory as per these enactments. In the majority of cases, employers fail to submit the annual returns to labour official concerned, which is mandatory under the Acts. The EPF Act has been made applicable to the construction industry with effect from 31 October 1980. Not even 5 per cent of the entire construction workforce has been covered under this Act. A committee was constituted during 2009–10 under the chairmanship of a senior trade union leader Sri Vijay Singh comprising employers, trade union leaders and the chief executive officers of BOCW Welfare Board by the EPF Organization (EPFO) to find out the reasons for the abysmally low coverage of construction workers under the EPF Act and to recommend the ways and means of enhancing the coverage. The author was a member of this committee and attended a few meetings before superannuating from the service. The author demanded to make available the statistics regarding the number of the construction workers as at that time covered under the EPF Act. The statistics given to the committee (after a lot of delay and hesitation) showed that only 18 lakhs (1.8 million) building workers as in 2011 in India were covered under this Act, and majority of them were the direct employees of the builders and not the construction workers actually engaged at the construction sites. It is not known what recommendations were eventually made by the committee. But even today, the author can safely say that enforcement of the provisions of the EPF Act is grossly inadequate. It is a pity that construction workers haven't received the benefit of this form of social security.

The plight of the workers in the construction industry is aptly summed up in the 'statement of objects and reasons' given in the preamble of the Building & Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (in short the BOCW Act) which is reproduced as under:

Building & Other Construction Workers are one of the most numerous and vulnerable segments of the unorganized labor in India. The building and other construction works are characterized by their inherent risk to the life and limb of the building worker. The work is also characterized by its casual nature, uncertain working hours, lack of basic amenities and inadequacies of welfare facilities. In the absence of adequate statutory provisions, the requisite information regarding the number and nature of accidents is not available.

Recently the Hon'ble Supreme Court described the building workers as the 'nation builders': "It must be appreciated that construction workers do not assist only in building infrastructure, but they also assist in building the nation, in their own small way" (the Supreme Court in *National Campaign Committee for Construction Labour [NCC-CL] vs. Union of India & Ors.*, in petition No. 318 of 2006 decided on 19 March 2018). They are seen working almost everywhere. Yet their working conditions are pathetic, worse, exploitative and heart rending. The workers in this industry can be described as nothing but modern serfs and slaves.

It is in these contexts that the Government of India enacted at long last a comprehensive law for the benefit of the construction workers, viz. the BOCW Act and the Building and Other Construction Workers Welfare Cess Act, 1996 (in short referred to as Cess Act), which came into force on the first day of March 1996. While the central government framed the Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Rules, 1998, and the Building and Construction Workers Welfare Cess Rules, 1998, no state government immediately framed the Rules to the BOCW Act. As a result, the BOCW Act remained on paper only as Rules as and when framed under the parent law becomes an instrument for implementation of the law, that is, it is a labour administrative instrument.

A writ in the Hon'ble Supreme Court was filed by a non-governmental organization (NGO) called the National Campaign Committee for Construction Labor (NCC-CL), and it pursued the legal case doggedly. Eventually, the Hon'ble Supreme Court passed an order directing the state governments to enact rules and constitute the welfare boards for the construction workers. It is only then that the state governments woke up from the deep slumber and started framing the rules and constituting the welfare boards for the construction workers; this was after almost one decade after the enactment of the BOCW Act. So much so for the concern by the state governments towards the most neglected section of the unorganized workers.

The salient features of the BOCW Act are as follows:

1. It is made applicable to the establishments which employ ten or more building workers on any one day of preceding 12 months. There are elaborate definitions of the terms, viz. building and other construction work, building worker, contractor, employer or establishment. It prescribes constitution of central and state advisory committees to advise the governments on matters arising out of the administration of the Act.

2. It prescribes for the constitution of expert committee to advise the government for making rules under the Act.
3. It provides for the registration of the establishments and the building workers as beneficiaries and issuance of identity cards to the workers.
4. It prescribes for the constitution of the Building and Other Construction Workers' Welfare Boards and its members, meetings and functions which deal with the social security schemes to be framed by it regarding health, scholarship, pension, maternity benefit and so on.
5. It prescribes the fixation of working hours, overtime payment, provision of facilities like drinking water, accommodation, latrines, urinals, crèches, first aid and canteens.
6. It prescribes constitution of safety committee, appointment of safety officers, notices of accidents on the worksites and power to make rules of the safety and health of building workers.
7. It provides for the appointment of inspecting staff, powers of the inspectors.
8. It prescribes the responsibility of employers such as requiring them to send the notice for the commencement and completion of building and other construction work.
9. It provides for the penalty for the contraventions of the provisions regarding the safety measures and penalty for other offences, recovery of penalties and cognizance of offences.
10. It provides for the application of the Employees' Compensation Act, 1923.
11. It empowers the appropriate government to make rules under the Act.

Thus, it can be seen from the legal framework of the BOCW Act that it is a complete code by itself. A long-felt need to ameliorate the service conditions of building workers seems to have been fulfilled. The Act covers major issues concerning the building and construction workers.

As noted earlier, the government has enacted a complimentary law, viz. the Cess Act. It is a five-page-long Act containing only 15 sections, but it empowers the appropriate government to collect cess from every employer and the same is remitted to the state welfare board. The Cess Act provides for collection of the cess at the source itself, that is, at the point of sanction of the building plan of the project by the local body, and the local body

remits the cess amount to the welfare board. In the projects of the government agencies, the cess is deducted from the bills of the contractors and is remitted to the welfare board. Thus, an automatic mechanism has been created in this Act to enable the enormous amount of fund to flow to the welfare board. Hence, there is a steady and assured source of funds made available to the welfare board. The welfare board is required to spend the funds collected through cess for the welfare of the workers in the industry. Thus, it can be seen that even the servicing of the social security schemes has been adequately taken care of without depending upon the government funding. In theory, the two laws together constitute a complete and a well-conceived legal framework designed to take care of the total welfare of the construction workers. In this sense, the laws may even be seen as 'utopian laws'!

A mere elaboration of the two laws together will give an impression to the readers that there exists a comprehensive legal framework to address the needs and welfare aspects of the workers in the building and construction sector, and hence it is obviously expected that their welfare, amelioration and living standard should stand maximized. But a close scrutiny of the empirical realities tells us a different story. The following section discusses about the empirical realities.

3 GROUND REALITIES CONCERNING THE CONSTRUCTION WORKERS

1. Registration of Establishments: The provision of registration of establishments is aimed at creating a comprehensive database of all types of construction activities in the country which will contain information on the name and address of the employer, nature of work in which building workers are employed and their number, probable date of commencement and completion of work and so on. This information is extremely useful to map and locate the workers for the purpose of registering them as beneficiaries. But the ground reality is quite different. From the author's experience, it can be asserted that a majority of the employers (save the big ones) are not registering their establishments under the BOCW Act. This is due to the lack of awareness among them and also due to the lack of enforcement of this provision. The stringent provision that unregistered establishments cannot employ building workers in their establishment has remained only on paper.

2. The Notice of the Commencement/Completion of Building and Other Construction Work by the Employer: This provision also helps to create a comprehensive data on the projects being undertaken. Unfortunately, majority of employers are not sending such notice to the authorities.

3. Registration of the Building Workers as Beneficiaries: This provision is the heart of the whole BOCW Act. One of the main aims of the BOCW Act is to provide social security to the construction workers who constitute the most deprived segment of the working class. The law requires that the building workers who are in the age group of 18–60 years and who have worked at least 90 days in the preceding 12 months are eligible to register themselves as the ‘beneficiaries’ of the Board. For this purpose, the building worker is required to submit an application accompanied by his/her photographs, age proof and a certificate of employment from his/her employer along with the registration fees and an annual contribution. Then he/she is registered as a beneficiary and is issued with a photo identity card. This process apparently is a simple one. It should have attracted hordes of building workers for registration. Alas! it is not so simple in reality.

I outline the empirical realities facing the worker seeking to register under the Act as said earlier. In the first instance, the government has not created awareness of this very important provision amongst the construction workers. Hence, it is reported that most workers are unaware of this provision. Then, it is not surprising that they do not approach the Registrar to register under the Act as a beneficiary. Workers also consider the opportunity costs of complying with the registration process, that is, a day’s wages foregone to register, assuming that registration process is simple enough to be complied with in a day. But as is normal in any government office, for any work, one has to make frequent ‘pilgrimages’! The building workers simply cannot afford to lose their wages which constitute the meagre resources for their livelihood.

Moreover, it is found that the construction workers often find it difficult to obtain the employment certificate from their employers as the latter hesitates or delays issuing such a certificate to say that the workers have worked for 90 days under them for fear of being exposed to consequent multiple bureaucratic processes. The registration process is rendered more difficult as many workers do not have birth certificate as they have migrated from remote villages wherein these formalities may not have been scrupulously complied with. In the current period, *Aadhaar* card (a biometric Identity Card issued by the Government of India) has become another

source of complication in the sense that there may be mismatches between two official documents. Moreover, workers need to renew the registration periodically which may not be always complied with for various reasons such as remigration of workers or just ignorance on their part. Under the Act, a worker ceases to be a beneficiary if he fails to make contribution even for one year. The registration can be restored if the beneficiary pays the arrears of the contribution. If the contributions remain outstanding for two years, then the registration cannot be restored. So the registration process has to be done again afresh. Unlike the employers who have consultants who take care of the procedural formalities concerning various legal compliances, the poor migrant workers often fail to keep track of these procedural complexities and hence become legally defunct. This is a hard but a fundamental empirical reality that cannot be lost sight of, and this has grave implications as the worker has no legal existence merely because of lapses with regard to registration. On the other hand, the employers are least bothered about registration of their workers. The trade unions or the NGOs have little or no access to these workers. If either of them visits the building workers after working hours to enlist them for registration and if the employer comes to know of it, then the probability of those building workers losing their jobs are higher. Typically, employers in this industry as probably in others resent trade union formations.

These instances have been cited only to highlight the daunting and difficult task of registration of building workers. Another major lacuna in the registration of the building workers relates to the migrant construction workers as identity cards issued in one state is not acceptable in another state. The migrant workers do not make fresh efforts to rectify this. This highlights one issue of the need for making the identity card *portable* so that it is acceptable in other states also. The author has raised this issue at many consultative meetings held by the Ministry of Labour, Government of India. There is an urgent need to amend the BOCW Act to make registration of migrant constructions easier. But nothing seems to have been done in this regard. As a result, the registration process of migrant workers is adversely affected.

During the service, the author came across one builder who volunteered to get his workers registered. In another case, the chief engineer of the Public Works Department asked the author to address the contractors to create awareness amongst them about the registration processes, and this intervention yielded fruitful results. The contractors arranged a gathering of building workers. Nearly 1000 workers were registered and were

issued with photo identity cards on the spot. This rare feat could not be repeated. The key lesson learnt is that cooperation of the employers is of utmost importance in the process of registration of workers.

The author tried another experiment. He invited the staff of the Social Welfare Department of Bangalore University and all such departments of the affiliated colleges and persuaded them to involve the students studying Master's in Social Work to undertake the registration of the building workers working in various sites. As many as 180 students were involved. The builders were intimated well in advance about this, and the students were issued with introduction letters to be shown at the site. The result was disastrous. The employers did not entertain the students save a dozen or so.

The author has addressed the members of Confederation of Real Estate Developers of India (CREDAI), the Builders Association of India (BAI), Bangalore Chapter, the Contractors Association of Karnataka; toured the districts of Karnataka State; and held meetings of the engineers of the government departments like the Public Works Department, Zilla Panchayat (panchayat institution at the district level), the Irrigation Department, the Sanitation Department, the Local Municipal Bodies in the presence of the Collectors of the district to sensitize them about the registration of the building workers working in their projects and the social security benefits made available by the Karnataka Building and Other Construction Workers Welfare Board. More than 20 districts were visited. The result was disappointing as expected. No government engineer took initiative or interest to undertake the registration of building workers working in the projects of their departments.

The author sensitized the Karnataka Legal Services Authority which arranged a two-day workshop in Vidhana Soudha (Legislative Assembly building in Bengaluru) for all the district judges who were the chairmen of the respective District Legal Services Authority to sensitize the judiciary. The workshop was inaugurated by the then Hon'ble Chief Justice of India, Hon'ble Justice K.G. Balakrishnan with participation of two sitting Supreme Court judges, all the judges of the Karnataka High Court and the chief secretary of the Government of Karnataka. As it can be seen, this was a gathering of judicial and administrative officials at the highest levels. This exercise provided significant results with respect to registration of construction workers.

The principal secretary of the Public Works Department was so much sensitized that he issued a Government Order directing the executive engineers to undertake registration of all the building workers working

under the contractors in the ongoing projects, and it was made mandatory to send monthly progress report in a prescribed format. Nobody took the Government Order seriously. Not a single building worker was registered, and no monthly returns were filed.

Many state governments in order to boost the number of registrations under the BOCW Act have registered the beneficiaries under the Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGA) as beneficiaries under the BOCW Act. As a result, registrations under the BOCW Act shot up considerably often in lakhs, but the problem here is that fake beneficiaries under the MGNREGA could have been registered as beneficiaries under the BOCW Act. We need to appreciate the fact that the MNREGA beneficiaries are not the building workers as building or construction is not their *main* avocation. Whereas the building workers, namely mason, bar-bender, carpenter, plumber, electrician, painter, tile layer and so on are the mainstream workers of the building and construction work, and it is their main avocation. If the MNREGA beneficiaries are registered as beneficiaries under the BOCW Act, then there are two problems, viz. there arises double registration, that is, registration under the MGNREGA Scheme and that under the BOCW Act; the funds available for the mainstream building workers will be reduced to that extent.

Because of the reasons explained earlier, the registration of building workers has not made desired progress. Some estimates show that even after 22 years of the enactment of BOCW Act only 35 per cent of the estimated number of construction workers have been registered so far as 'beneficiaries' in the whole country. It is indeed a long way ahead before every building worker is registered.

4. Schemes of the Welfare Boards: Section 22 of the BOCW Act clearly lays down the types of schemes to be framed by the Boards for the benefit of the building workers. They include accident benefit, pension benefit, loan benefit for the construction of houses by the beneficiaries, group insurance scheme, financial assistance for the studies of the children of the beneficiaries, extension of medical assistance for treatment of major ailments of a beneficiary or his/her dependents, payment of maternity benefit to the female beneficiaries and so on.

In reality what has happened is that various state governments have deviated from these schemes and have introduced what can be dubbed as populist schemes such as providing pressure cookers, cooking gas cylinders and gas stove, bicycles, mid-day meals, pilgrimage tours and so on. In Karnataka, marriage halls at district headquarters were sought to be

constructed at a huge cost, but the idea was dropped due to protests from the trade unions. However, in Karnataka, large acres of land have been purchased by the Board across the state utilizing hundreds of crores of the cess amount. If no fencing of the land is done, it is feared that it will be encroached. Fencing the land at various places again will cost a huge amount to the Board.

Thus, it can be seen that due to availability of huge funds in the form of cess, the non-officials at the helm are mis-utilizing the funds at their whims and fancies for the purposes other than the ones that are prescribed under the BOCW Act.

5. The Delivery of the Schemes to the Beneficiaries: The delivery of the schemes mentioned in the Act is another daunting task because a lot of documentation is needed to be produced by the beneficiary. In some states, it takes months together to sanction the benefits which creates apathy among the beneficiaries. There is no time limit prescribed to sanction the benefits. Another worrying factor is the rise of fake claims, especially the medical claims. Unscrupulous middle men have sprung up. Correcting these wrong practices is a daunting task because as it happens in all social security schemes in India, touts play a mischievous role to siphon off the benefit money.

6. The Board Secretary, Officer and Staff: Another major concern is about recruitment of officials in the Board. It is found to be a practice in Karnataka to depute an officer from the Labour Department to the Board who many a times is unwilling to join the Board as they do not exercise any power in the Board unlike in the Department. Those who join have no interest in the affairs of the Board. Retired officers are taken on contract basis. The staff is mostly recruited on contract basis through a contractor and the employees of the Board consequently are less committed to their tasks. The secretary is usually an Indian Administrative Service (IAS) or from other all-India cadre like Indian Forest Service officer who regards it as an undesirable posting. Thus, the overall picture is that the Board which has a huge task of registering the building workers, administering the social security schemes and managing huge finances of the cess amount is not being run or administered in a professional manner. In fact, the Board official should have a *missionary zeal*, only then the unorganized building workers will be served better. It is to be acknowledged that welfare administration is a specialized subject and needs training. This is not happening with the Board officials. Training programmes in welfare administration, especially the health-care management, pension

management, the educational assistance management and financial management which are specialized domains are very much essential but are not being conducted to build the capacity and competency of the Board officials. They are running the Board just like a government department. This approach also is contributing to tardy progress of achieving the aims, objectives and goal of the BOCW Act in registering and extending the social security benefits to the needy building workers.

7. Administrative Expenditure of the Board: Section 24(3) of the BOCW Act says that no Board shall, in any financial year, incur expenses towards salaries, allowances and other remuneration to its members, officers and other employees and for meeting the other administrative expenses exceeding 5 per cent of its total expenses during that financial year. In practice, this is not found to be working, as the administrative expenditure is found to exceed the mandatory 5 per cent ceiling. The issue of excessive administrative costs needs to be investigated, and if the excess expenses are inevitable and justified, then necessary suitable amendments in the law needs to be made. If the excessive expenses are not found to be justified, then administrative reforms are necessary.

8. Service Conditions of the Building Workers and the Welfare Amenities to be Provided at Their Place of Work: The BOCW Act prescribes that the building workers shall (a) work for eight hours, and, if they work overtime, they shall be paid overtime wages, (b) be given a paid holiday and holiday with salary on national and festival holidays, (c) be paid the prescribed minimum wages and no discrimination shall be made in payment to the female workers for the same and similar work, (d) be enrolled in the provident fund scheme, (e) be issued with an employment letter, (f) be issued with a wage book or wage slips and their attendance, and wage register is required to be maintained and (g) be paid their wages on a working day, during working hours and at the worksite compulsorily in the presence of the authorized representative of the employer. The representative has to attest the wage register with a signed certificate that the salary has been duly paid in his presence. Notices showing the rate of wages; the weekly holiday; the date and time of payment of salary; and the names of all the building workers employed and the names of the Inspectors under the BOCW Act with their addresses have to be displayed prominently in the language understood by the majority of the workers. All this looks fine on paper. But the reality is otherwise.

In the construction industry, the records of the employment and salary in majority of workers' cases are not maintained. Further, the builders or

the contractors by and large do not issue employment cards or wage slips to the workers. This has been discovered to the dismay of the author at the time of registration of construction worker as beneficiary of the welfare board. Paid weekly holiday is rarely given. Most of the time, they are made to work beyond eight hours with no overtime payment—overtime payment is generally double the normal wage rate. The author from his personal experience can vouchsafe for this. During his service, he came across several instances of violations of payment of salary.

One such instance the author would like to recall. On one occasion, about 200 migrant building workers from the State of Odisha approached the author saying that they were working on a construction site, and the contractor had not paid them their salary arrears even after the construction work was completed. It was learnt that the contractor had introduced a practice of paying advance as against full salary on the promise that the balance would be paid to them at the time of completion of the project. But without fulfilling this promise, the contractor bolted away. An amount of nearly ₹10,00,000 (US\$1 million) was due to these 200 workers. They had come to the office along with their belongings to go to their homes in Odisha. Little did they know of the provision of law relating to the claim regarding the non-payment of wages due to them which in the normal circumstances takes not less than one year to settle. The author had a daunting task of settling the salary dues within a day or two.

The author summoned the principal employer to the office who pleaded ignorance regarding the whereabouts of the contractor. The managers representing the principal employer were categorically informed that under the law it is their duty to settle the dues. This worked as the principal employer's managers brought the erring contractor to the labour department office. The contractor argued that he has paid full salary to these workers. He had no wage register to substantiate his arguments, neither had he issued wage slips to the workers. The salary was not paid in the presence of the representative of the principal employer either. The managers of the principal employer were told to make good the dues. As a result, the managers of the principal employer exerted pressure on the contractor, and he agreed that some salary was due to the workers, but he denied that the arrears to be paid amounted to ₹10,00,000 as claimed by the workers. In the absence of any records like wage register or wage slips, it was difficult to ascertain the exact amount and further delay on wage payment would cause further harm to the workers. Hence, it was advised that the contractor and the workers may discuss among themselves and

arrive at a mutually agreeable figure. They both discussed and arrived at an amicable figure of ₹7,00,000 (0.7 million) and the same was paid to the workers by the contractor who was claiming that nothing was due to be paid, the following day.

The story does not end here. The workers with this huge cash went to the railway station to board the train to Odisha which was due to depart in the early hours of the following morning. The workers camped at the platform. Somehow the railway police constables came to know that these workers were carrying a huge amount of cash. The railway police threatened to file a money theft case against the workers and send them to prison and extorted ₹5,00,000 from these workers. Next morning, again, the workers approached the author and narrated the entire incident. Although, this was beyond the scope of the author, he sought the intervention of the police commissioner in the matter and the amount of ₹5,00,000 was recovered from the railway police personnel and paid back to the workers. This incident makes us to think about the extent of exploitation the poor helpless workers are subjected to. *It is a matter of profound concern that law fails to protect the legal right of payment of salary to the workers.* The right to receive the salary is the most fundamental and the first right among many rights conferred upon a worker. Alas! If this right is trampled, then the worker has nowhere to go but only to suffer.

9. Other Welfare Amenities: The other welfare amenities which are to be provided by the employer to the building workers at the site as per law are drinking water, urinals, canteen, crèche and first aid. These have by and large remained in the statute book and are rarely complied with by the employers.

10. Safety Provision at the Worksite: There exist as many as 188 rules of safety to be observed by the employer. Prominent among them relate to fire protection, emergency action plan, excessive noise and vibrations, fencing of motors, lifting and carrying excessive weight, safety policy, dangerous and harmful environment, overhead protection, dust, gases, fumes, vehicular traffic, eye protection, head protection, electric hazards, illumination of passageways, stacking of materials, safety helmets and shoes, disposal of debris, stability of structures, maintenance of lifting appliances and their periodical tests, automatic safe load indicators, winches, buckets, hoists, maintenance of lifting gears, ropes, hoists carrying persons, tower cranes, usage of runways and ramps, work on or adjacent to water, transport and earth moving equipment, concrete works, beams, floors, roofs, demolition, excavation and tunnelling works, construction, repairs and

maintenance of steep roof, ladders and step ladders, catch platform and hoardings, chutes, safety belts and nets, structural frame and formwork, scaffolding and so on. As we can appreciate even from the short recitation of safety provisions concerning some aspects of work in the construction industry, the law attaches tremendous importance to the safety of the building workers as provided for under the BOCW Act. But what is the reality? One can see at the most ubiquitous helmet and safety shoes on major sites. The other provisions for safety are compromised by the employers, exposing the building workers to high risk to their life and limb. As we noted earlier, accidents abound in this industry, which in majority cases go unreported and uncompensated.

11. Medical Facilities at the Worksites: The BOCW Act provides that every building worker is required to be medically examined periodically and the medical costs should be borne by the employer. The record of such medical examination is required to be maintained by the employer. Where hazardous work, like roof work, steel erection, work under and over water, demolition or work in confined spaces, is carried out, the employer has to provide an occupational health centre at the worksites. In case less than 500 workers are working on a site, the employer has to provide an ambulance room and an ambulance van and stretchers. Where more than 500 workers are working on such sites, the employer has to provide for occupational health services. Every employer has to provide the first-aid boxes and emergency care services or emergency treatment at the worksite. But the ground reality is that by and large nothing of this kind is provided by the employer at the worksites.

4 INTERVENTION OF THE HON'BLE SUPREME COURT

It is worth mentioning here about the landmark judgement delivered by the Hon'ble Supreme Court on 19 March 2018 in CWP No. 318 of 2006 filed by the National Campaign Committee for Construction Labor (NCC-CL) after 12 years of monitoring the implementation of the BOCW Act (see the judgement at, SC 2006). The Court has critically examined the failure of various agencies responsible for the implementation of the BOCW Act all over the country forcing NCC-CL to approach the Supreme Court with a prayer that the BOCW Act and the Cess Act should be meaningfully implemented in letter and spirit. The Hon'ble Supreme Court has issued four very important specific directions as mentioned below.

The Ministry of Labor and Employment, the State Government and the Union Territory Authorities (shortly, the government agencies) should put in place and strengthen the registration machinery for registering the establishments and the workers. This should be done within a specified time frame to be decided by them, but at the earliest.

These government agencies should establish and strengthen the machinery for the collection of cess under the Cess Act.

The Ministry of Labor and Employment should frame one composite model scheme for the benefit of construction workers in consultation with all the stakeholders including NGOs who are actually working at the grass-root level with construction workers. The Court expects the Ministry to include the issues and concerns relating to education, health, social security, old age and disability pension and other benefits that are necessary to enable the construction workers to lead their lives with dignity. The Court also expects that the scheme will be framed and publicized within a specific time frame to be decided by the Ministry, preferably within six months, but in any event on or before 30 September 2018.

The government agencies should conduct a social audit on the implementation of the BOCW Act so that in future there is better and more effective and meaningful implementation of this Act. In this respect, the Court has referred to the detailed guidelines for conducting social audit with respect to MGNREGA prepared by the Comptroller and Auditor General of India and advised that the same can be adapted for carrying out a social audit with respect to the implementation of the BOCW Act.

Apart from the above four specific directions, the Supreme Court has issued nine General Directions, viz. constitution of State Advisory Committees (which are yet to be formed in most of the states) and Expert Committees, appointment of the Registering Officers for registration of establishments and construction workers, establishment of Welfare Board (as a body corporate having perpetual succession and a common seal), creation of Welfare Fund (with appropriate rules for utilization of the funds), registration of all construction workers and providing them with identity cards (the Ministry to decide on an appropriate system of identification and registration, provided it is effective and meaningful), and extension of the benefits of the Maternity Benefit Act, 1961, the Minimum Wage Act, 1948, the Employees State Insurance Act, 1948, and the EPF Act to the construction workers. The Ministry of Labor and Employment should also consider whether the projects of the Government of India in the railways, defence and other establishments are brought within the pur-

view of the BOCW Act. In the last two meetings of the Central Advisory Committee at Bengaluru and Guwahati, the State Board representatives had reported about the non-payment of Cess by the Railways and Defence Ministries! Finally, the Court desired more frequent meetings of the Monitoring Committee, and it should proactively ensure full compliance of the provisions of the BOCW Act, the Cess Act and the directions issued by the Supreme Court. The Government of India has been directed to take the decision on the management of the Cess already collected. The Supreme Court has expressed concern that the benefits and the entitlements that have accrued to the millions of construction workers who have not been identified over the past 22 years since the enactment of the BOCW Act cannot be now passed on to them.

5 CONCLUSION

It is a daunting task to implement this Act. What needs to be done is:

1. A massive awareness campaign on the lines of 'pulse polio programme', *Aadhaar*, *Swatch Bharat Andolan* (Clean India Mission) using electronic and print media needs to be undertaken so that the stakeholders come to know of the BOCW Act.
2. The building and construction work undertaken by the government agencies should be covered under the provisions of the BOCW Act relating to the registration of establishment and of the building workers working in such worksites, and they should implement the health and safety provisions and so on at least in the government projects. The government should be a model employer as has always been the philosophy in India since Independence.
3. Trade unions and NGOs are to be involved in the work of registration of building workers, and these organizations should first be sensitized which in turn should sensitize the construction workers of their rights under this Act.
4. The employers' associations like the Confederation of the Real Estate Developers of India (CREDAI), Builders Association of India (BAI), the Contractors' Associations, the Federation of Indian Chambers of Industries & Commerce of India (FICCI), the Associated Chambers of Commerce (ASSOCHAM), the Confederation of Indian Industries (CII) and so on should be sensitized about the Act, and they and their regional bodies/chapters should be actively involved

in the process of effective implementation of the Act in so far as the employers'/contractors' roles are concerned. If the employers take interest, then a great deal can be achieved with respect to the implementation of the Act, especially the registration of beneficiaries.

5. The welfare board officials need to be adequately trained in the welfare administration, financial management, application of information technology, data management and analyses, so that their competencies can be built and enhanced, and they are sufficiently sensitized to develop right attitude to deal with a sensitive subject like this.
6. Amendments of the BOCW Act, relating to the portability of the identity card, ceiling on the administrative expenditure of the board, appointment of a professional having experience in welfare administration as the chief executive officer of the board and more stringent penal provisions, need to be carried out.

As per the experience of the author in the Karnataka Board, if the aforementioned measures suggested are implemented, they will go a long way in realizing the objects of the BOCW Act. Now with the intervention of the Apex Court it is fondly hoped that after 22 years of the enactment of the BOCW Act, the ultimate beneficiaries, that is, the building and construction workers will find their amelioration at long last, and hopefully it will not remain a 'will-o'-the-wisp'.

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The Language of Employment Contract: Paid Domestic Work Practices and Relations

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I INTRODUCTION

Paid domestic work and its specificities, especially its social location, have raised many challenges in the understanding of the world of work, be it the specificity of employment relations and conditions, labour regulations or organizations of workers. Estimates of the number of paid domestic workers in India, whatever be the source of data, have shown a huge increase over the last decade with a clear trend towards feminization.¹ The National Sample Survey Organisation (NSSO) data for 2004–05 showed a dramatic increase in the number of women engaged in domestic service, but in the context of reported anomalies in this round, it could be faulty. However, even if the comparison is made between 1999–2000 and 2011–12, it is clear that, especially in urban India, domestic work accounts for a growing and increasingly significant share of total female employment.

¹ See ILO, 2012, for a detailed discussion on discrepancies between various sources on the estimates of domestic workers.

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The number of women employed in the sub-categories² of the industrial category ‘private households with employed persons’ as well as personal services³ as per the 2009–10 employment data (which itself is a huge under-representation due to definitional ambiguities and invisibility issues) is 2.4 million. This shows more than a four-fold increase over the ten-year period from 1999 to 2000. The share of female workers remained as high at 85 per cent, clearly showing feminization of the sector (Neetha 2013).

Paid domestic work is different from other forms of paid work with very specific workplace characteristics, the content of which is both historically and culturally embedded. It undermines the notion of a division between the domestic spheres as private, separate from the public sphere. For example, the usual labour market distinction of part-time and full-time, which is purely based on daily working time, is often used to analyse employment relationships in domestic work, resulting in ambiguities in legislative entitlements governing this sector. Part-time domestic workers are distinct from part-time workers in any other informal sector of employment. Most ‘part-timers’ undertake same or multiple/heterogeneous tasks in different households. While ‘part-time’ from the point of view of the employer, their aggregate daily hours of work across all employer households tend to be equal to or greater than that of a ‘full-time’ worker in a factory or a construction site (as defined by ‘normal working hours’ under labour laws⁴). Yet another specificity of the sector is that of live-in and live-out workers, which falls outside of any informal sector employment framework. Personal relations govern entry into work and conditions of work, and the contours of the workplace being the four walls of the house makes this sector qualitatively different.

The lack of collectivity/unionization is a critical factor defining the vulnerability of workers with very few domestic workers in the organized segment. The prevalence of personal relations and the near impossibility of addressing the diverse economic and social needs of workers by any organization underline the limitations of organizing domestic workers apart from the limitation that private households as a workplace would raise in organizing workers. There has been a significant change in the organization of

²The sub-categories are housemaid/servant, cook and governess/babysitter.

³The sub-category under personal services is ‘General household maintenance activities like broom the floor, dusting, cleaning of utensils etc’.

⁴Factories Act 1948 specifies working hours as 48 hours in a week and not more than 9 hours in a day. The Minimum Wages Act, 1948, also specifies working hours under the rules 20–25—the number of work hours in a day should not exceed 9 hours for an adult.

workers in a positive direction in the last few years after the adoption of the International Labour Organization (ILO) Domestic Workers Convention 189, 2011.

Some steps to extend existing labour laws to domestic workers have been taken by the government both at the national and state levels to protect the rights of these workers which are largely haphazard and arbitrary (Neetha 2017). Further, like in the case of any other informal sector, implementation of regulations is a huge issue which is further worsened by the social prejudices around domestic work and the workers (Neetha 2015a). An ongoing struggle of the organization of domestic workers is the passing of the proposed national policy on domestic work which was drafted in 2012, after much pressure and lobbying from national and international organizations. The policy did not get the clearance of the then government though consultations and discussions with various stakeholders were held many times. The fate of this policy is still unclear, despite its revision in 2015 and again in October 2017. These developments were all in the backdrop of the ILO Domestic Workers Convention 189, 2011, which India is yet to ratify—which clearly shows the lack of political will to support the cause of domestic workers. Further, discussions around the draft national policy on domestic workers and the various stages of its evolution to the present form and the uncertainty that surrounds the bill even now are all indicative of the poor organizational base of the sector.

Domestic workers are employed in a variety of ways, and the informalization associated with the employment is one of the reasons for their poor conditions of work and deficits in decent employment.⁵ The discourse around regulation of the sector at the international level, while acknowledging the informality associated with domestic work, has been dominated by the need for formal employment contracts as absence of proof of employment is found to be an important hurdle in the enforcement of existing regulations if any. Drawing from these, in India, the language of the employment contract dominates current policy discussions on working conditions and employment relations of domestic workers.

Formal employment contracts though have been in practice among many organizations that are involved in the recruitment and organizing of domestic workers for many years, this dimension saw an added attention in the discussion around regulation of the sector. In the discussion on formalized contract-based recruitment and placement of domestic workers,

⁵This is especially true in the context of live-in workers as unlike the live-out workers they are with the employers throughout the day which makes them most vulnerable.

models which are based on a cooperative or as a collective or a community ideology have been much highlighted (Neetha 2018). Cooperative models of domestic workers are an important development, which was an outcome of some of the earlier attempts to organize domestic workers. Formal written contracts, with fully laid-down conditions of work, mark the employment relations of workers who are members of these initiatives.

In this context, the chapter through analysing the existing recruitment practices and employment relations of one organization which organizes workers under a cooperative explores the possibility and implications of formal contracts for domestic workers. The chapter argues that though formal contracts have been the focus of the organization, in the current context many workers are hesitant in moving away from personal relations with employers to formal relations. Even when workers are members of collectives their engagement with issues and the extent of their commitment with the cause of workers' rights are limited because of the social and economic specificities of these workers. Thus, it is highlighted that labour rights and worker identity remain a challenge, even with formal contracts, given the intersectionality of the sector with other axes of inequalities such as gender, class and caste.

This chapter is drawn from a research study, 'Fair Recruitment Practices of Domestic Workers: Lessons from Co-operative/Collective Initiatives', supported by the ILO. The data were collected as part of the said ILO project using multiple methods. Details on the organization such as organizational structure, history of the organization, services provided, numbers of workers, broad profiles of workers and so on were collected from the organization during interactions with coordinators and staffs of the organization. Details on the everyday functioning of the organization and the role of various members were gathered through semi-structured interviews and discussions with office bearers of the organizations. Information on the specific benefits of joining the organization, its nature and conditions (if any), the nature of their engagement with the organization, awareness on the organizational structure, systems of interaction, complaints and conflict resolution mechanisms and so on were collected from worker members.

The rest of the chapter is divided into three sections. Section 1 provides an overview of workers, employment relationships and the current developments in the sector which provides the broader context of the study. The history and structure of the triple model of organizing workers followed by an organization are elaborated in Sect. 2. Section 3 outlines the specificity of the cooperative in terms of recruitment, placement, conditions of work and

monitoring mechanisms. Through an analysis of the model, Sect. 4 examines the possibility and viability of formal contracts given unequal relations with the employer and workers' dependency arising out of their marginalized socio-economic conditions. Finally, Sect. 5 summarizes the chapter.

2 DOMESTIC WORK: OVERVIEW OF WORKERS AND EMPLOYMENT RELATIONSHIP

Because of the limited data sets that are available for intense enquiry and due to the highly informal nature of employment relations, it is difficult to arrive at a definite macro-profile of workers in the sector. However, the available data provide broad contours which offer useful insights into the emerging social and demographic characteristics of these workers. While the increase in the number of domestic workers across all sub-categories—housemaid/servant, cook and governess/babysitter—is noteworthy, it is the all-encompassing housemaid/servant which shows the maximum increase, accounting for 92 per cent of all female domestic workers. This reflects the nature of tasks often assigned to these workers such as sweeping, mopping and other cleaning tasks. Child care and assistance in cooking and other odd chores are often subsidiary tasks which are expected from every domestic worker when demanded.

Domestic workers across the country, be it any tasks such as house cleaning or care work, are vulnerable to low wages and poor conditions of work. Though there have been significant interventions⁶ and positive changes in ensuring rights of domestic workers, they are still to acquire all their rights as workers, having been excluded from many labour regulations. Some state governments have opted for state legislation to include domestic workers under the Minimum Wages Act, 1948. Laws to enable domestic workers to avail social security provisions have been amended or passed in Kerala (Kerala Artisan and Skilled Workers Welfare Fund), Maharashtra (Maharashtra Domestic Workers Welfare Board Act, 2008) and Tamil Nadu (Tamil Nadu Manual Worker (Regulation and Employment and Conditions of Work) Act, 1982). After much lobbying, domestic workers were brought within the ambit of the Unorganized Workers Social Security Act, 2008 and the Sexual Harassment at the Workplace Act, 2013. However, gaps between the existence of a law or welfare programme, knowledge of it

⁶The adoption of the ILO's Domestic Workers Convention, 2011 (No. 189), and the Domestic Workers Recommendation, 2011 (No. 201), is a significant intervention in the valuation and recognition of domestic work and protection of domestic workers' rights at the international level.

among potential beneficiaries and the actual operation and coverage are issues even in states where mobilizations and struggles to get these legal interventions were considerable.

The range of tasks that are clubbed under the category of domestic work and its social histories are important issues that need consideration, though all workers under this category work in private households. In the context of domestic workers' recruitment and organizing, cooperative models are gaining popularity⁷ since these are based on democratic principles. Further, as many workers are from underprivileged communities with low levels of education and social capital, agencies play an important role in the placement of domestic workers in many cities and towns.

Domestic workers are vulnerable to exploitation such as low wages, non-payment of wages and poor working conditions. In many cases, they are unable to negotiate fair wages as employers quickly turn to other workers who are willing to work for lower wages (Neetha 2004). Many domestic workers are paid less than minimum wages; are not paid for all tasks that they undertake; work for long hours without overtime pay; and also regularly experience verbal or physical abuse on the job. The issue is particularly critical as there is little recourse to improving their conditions with them being outside many legal or policy interventions (Neetha and Palriwala 2011). Many studies have highlighted the issue of poor wages, absence of other benefits leading to economic hardships and poverty among domestic workers. Further, as private homes are their workplaces it, alongside the informality attached to their employment, makes them vulnerable to discriminations which are beyond economic considerations.

The prevalence of personal relations and the near impossibility of addressing the diverse economic and social needs of the workers by any organization underline the limitations of unionization in the sector apart from the limitation that private households as a workplace would raise in organizing workers (Neetha 2015b). It is often acknowledged that participation in union activities is difficult due to the hours and nature of domestic workers' work and their social and political vulnerabilities as well as because of the familial responsibilities for part-time workers and the isolation of live-in workers. The lack of proper unionization is a critical factor in their exclusion from labour laws, the violation of national, legal norms in their wage fixation and the absence of entitlements to various social security benefits (Neetha and Palriwala 2011).

There are different employment practices that are documented in the context of domestic workers and the concern around fair employment is an

⁷After the global economic crisis, worker cooperatives are in general growing in popularity.

often discussed one. Domestic workers' recruitment practices range from a highly individualized system to that of organized commercial placement agencies. There are multiple systems which may have characteristics of both with varying implications for workers and their conditions of work. In the context of direct employment, even when an informal intermediary is involved, the employment relationship is mostly determined by the employer given the unequal social and economic conditions of workers. When agents or intermediaries are involved, interests of agents are bound to adversely impact working conditions of workers and agents may take a fee/commission for the service from the employer as well as the worker.

The high degree of informalization coupled with the growth and feminization of the sector has also seen many efforts of organizing/collectivizing domestic workers. Given the larger context of domestic workers' employment, organizations with varied perspectives are engaged in the organizing of domestic workers. These range from intervention by traditional non-governmental organizations (NGOs) to the organizing of these workers by formal trade unions (Neetha 2015b). For example, Karnataka which was the first state to organize domestic workers now has all the different models which came up at different stages of domestic workers' organizational history. The Karnataka Gruha Karmikara Sangha has been active since 1986 in Bangalore and this organisation was the result of the mobilisation that 'Women's Voice', a women's NGO, initiated in the early 1980s. Currently, Karnataka has many domestic workers' organizations which are initiated by NGOs or civil society organizations which include large organizations that have a national presence such as the National Domestic Workers Movement. Many of these initiatives now have a registered union of domestic workers such as the Akila Karnataka Domestic Workers Union (initiated under National Domestic Workers Movement, NDWM), the Karnataka Domestic Workers Union, the Domestic Workers Rights Union, Mane Kelasa Karmikara Union and Bruhat Bangalore Domestic Workers Union (Association for Promoting Social Action, APSA). Apart from these, All India Democratic Women's Association (AIDWA) is also involved in the organizing of domestic workers in the state. The two domestic workers' unions affiliated to central trade unions are the Karnataka Domestic Workers Congress (affiliated to the Indian National Trade Union Congress, INTUC) and Bangalore Zilla Domestic Workers Union (affiliated to the Centre of Indian Trade Unions, CITU). Similar patterns of mobilization and organizational building are noted across various states. Thus, the current phase is marked by the

presence of NGOs, civil society organizations, community/religious organizations, women's movement or labour unions. Many NGO-based organizations have also moved into the union model which has increased the number of domestic workers' unions. Of all the models of domestic workers' organizations the most interesting is the NGO-union model which combines traditional NGO interventions such as supporting education, health, ration cards and other civil rights and women empowerment with that of labour rights. Thus a typical NGO-union model has a dual structure whereby the parent organization focuses on the larger social and community issues while the union organizes workers around issues of employment and wages. These organizations vary greatly in structure and size, ranging from loose affiliations of few members to well-structured organizations with many members. Some of these organizations as a move to intervene in the labour market conditions are also into recruitment and placement of workers under the cooperative model leading to a triple model of the NGO-union-cooperative model. Domestic work cooperatives require little capital investment as compared to many other cooperatives, and workers can be trained fairly quickly. These factors, combined with the positive effects of worker cooperatives on the lives of workers, make domestic worker cooperatives an alternative forum for recruitment. They also vary greatly in structure and size, ranging from loose affiliations of few members to well-structured cooperatives. As against the understanding of cooperative formation where workers initiate cooperatives, domestic worker cooperatives are mostly initiatives of external organizations.

3 TRIPLE MODEL OF ORGANIZING DOMESTIC WORKERS: NGO-UNION-COOPERATIVE MODEL

As discussed, many NGOs have also promoted cooperatives of workers⁸ alongside union formations to address the issue of recruitment and placement. The NGO-union-cooperative model is increasingly being seen as an effective way of organizing workers with a parent NGO and a cooperative and a union of workers, initiated and promoted by the NGO. The dual

⁸Domestic work has seen many cooperative initiatives across the world to address the specific issues and conditions of this sector. In many contexts, since domestic workers are immigrant workers, there are further layers to their vulnerability, including fear of deportation and separation from their families. Further, for immigrants, cooperatives are found to help workers form social networks; gain social leadership, financial and business skills; and work in healthier environments.

structure of the organization of workers, a cooperative and a union, is often considered important as it can provide protection to member workers by intervening directly into the conditions of employment as well as ensuring collectivity among workers. Many of these mixed initiatives do not have a clearly defined legal structure and fall broadly into the realm of social and solidarity economy which, apart from social and economic aims, has multiple layers of identities and relations and has a history of supporting and organizing workers.

The organization studied has been engaged with the issues of domestic workers since the 1980s. The initial phase of organizing was purely that of an NGO and did not have an NGO-union model. However, with the ILO convention on domestic workers, the organization decided to register as a union and it follows a NGO-union model. The organization is registered as a trust⁹ and has been active since early 2000s. It has a core team which is responsible for the planning and implementation of work at the level of the NGO. The core team consists of three people—the state coordinator, programme coordinator and the district coordinator in the order of hierarchy. Below the district coordinator in the district are two full-time staff members who are field animators, and there are also part-time animators. The organization supports a triple structure—an NGO component, a union and a cooperative of domestic workers. The process of registering the union was initiated in 2007 and the union was formally registered in 2011. The decision to register a union was largely in the context of the ILO convention on domestic work. The various preparatory consultations around domestic work before the convention made many NGOs realize its organizational limitations. NGOs though had a long history of association and organizational experience with the sector could not participate in many of these discussions as they were not part of the ILO constituents.

There are 85 local-level groups in the study area during the period of the study who are members of union and are also NGO beneficiaries. Most of the workers have joined the union through animators or other core staff members of the NGO. The animators conduct ‘area-level’ meetings (once in every week/fortnight or month) in domestic workers’ neighbourhoods mostly in open areas closer to workers’ homes. In these initial meetings, women from all categories of work may join and the discussions are mostly general in nature with issues related to drinking water, ration cards, domestic violence, problems related to loan repayment and so on dominating.

⁹Registered under the Indian Trust Act, 1882.

After few rounds of meetings at the local level, a group of domestic workers are formed for future work on the sector and are given membership in the union. These groups have two leaders—are responsible for managing the work at the local level. However, the overall management of the activities at the local level is coordinated by the animators who are office staff. The process of selection of the leader is also not formal and the involvement of the office staff is considerable.

The core members of the organization lead the advocacy lobby and are mostly involved in case handling. Then, there are domestic worker leaders who are the representatives of the union. The relationship between the core organization and the union though is defined, there are many levels of overlapping with union members being guided by and dependent on the organization at different levels. To quote the state coordinator of the NGO on the collective and union relationship with the supporting organization, “The collaboration between the advocacy lobby, the NGO, and the union is very strong. They invite us in the union meetings, there is always a consultation between the two. All the meetings and planning are done in consultation with each other. The collaboration is so much that the load bearing is with the staff, because union does not get that much time, but they are very much involved in it”.

The cooperative of domestic workers is a recent initiative and is a subset of the union. All the members of the cooperative are members of the union, but not all union members are in the cooperative. The cooperative was registered only in January 2017 under the state Self Supporting Cooperative Societies Act, 1996, and there are about 134 workers in the cooperative. Though the union has been active, it was felt that since union interventions are always at a higher realm there is a need for a body to intervene directly into day-to-day employment relationship to change larger structures. One of the important issues that the organization faced on a daily basis was the high volatility of work and working conditions. Cooperatives, by mediating the recruitment and placement of domestic workers, were thought as possible solutions to this issue. The possibility of an alternative or supplementary livelihood option was another factor which favoured the formation of a cooperative. The reason for initiating it was shared by the state coordinator “I am working for 11 years here at the organization. I’ve seen people changing but I don’t see transformation in the people, for me economic empowerment is very essential for people to stand up for them. I found a way to change these structures by the help of the cooperatives”. The cooperative was conceived and implemented by the NGO core committee after discussions with core representatives of the union.

An issue that has come up in legal cases that the union has been handling, which has been well acknowledged in the literature, is the absence of any proof of employment relationship with the employer (Neetha 2015a). Many employers take recourse to the lack of an employment contract—even not to pay workers their agreed wages. The case of Pappama, a domestic worker in Bangalore, which was taken up by the Alternative Law Forum, Bangalore, shows the struggle that any organization has to put in to establish an employment relationship in the case of domestic workers (see Mirchandaney 2011). It is in this context that arguments for formal contracts need to be seen.

4 STRUCTURE OF THE COOPERATIVE: RECRUITMENT, PLACEMENT AND CONDITIONS OF WORK

The process of cooperatives started with information sharing at the local level where the NGO and the union were already active. Initially meetings were addressed by the state and programme coordinator of the NGO, in the areas which were selected for implementing cooperatives. The joining or entrance fee for the cooperative is ₹50 and each share costs ₹100 and everyone must buy at least one share, for becoming a member.

The cooperative has a secretary, president and treasurer who are elected by the members of the cooperative. The election was organized and conducted by the NGO staff. The executive committee is the highest authority, as per bye-laws, which is supposed to meet three times a year and handle the bank accounts. All the functions are executed through the executive committee, like including new members, contracts or any kind of work initiative. President, Secretary and Treasurer's signature are needed for depositing and withdrawing money. A general body meeting has to be conducted once in every year where a representative from the cooperative department is also to be present.

The cooperative was envisaged to engage in the recruitment, training and placement of domestic workers. However, the initiative faces many challenges. Though all members of the cooperative were already working as domestic workers, the wage payment was found to be low and this was one of the concerns that the cooperative wanted to address. To address this, the plan was to further train the existing workers and place them on formal contracts by the organization. As shared by the coordinator, “we told every member to focus on training and we would find them job in an

apartment”. “Initially the plan was to approach places like apartments, hospitality sectors, and industrial/commercial spaces. These are places where bulk of the workers can be sent and with contracts with the employers. We thought for example, approaching the resident welfare committees of apartments and making contracts with them, but what we found is that they were not ready to take the responsibility”. Programmes to train workers for the hospitality sector such as hotels were also part of cooperative planning. The organization in collaboration with Radisson Blu Hotel offered training for selected members. As part of a joint initiative 48 women were given training which included domestic workers and their daughters. The training was for 15 days between 2 pm and 4 pm. The existing workers used to work in the morning and in the afternoon they attended training. After the training few workers worked in the hotel for one year but they were not offered decent wages and thus had to quit. The organization also had six months of house-keeping training which was also open to women who were not members of the cooperative. This was a diploma certificate course under an ILO project on childcare, healthcare, elderly care, car driving and computer. Apart from these initiatives, a short training for few days for the cooperative members was held in which 50 members participated. However, attempts to formalize and diversify the initiatives and related processes had many challenges. There were no employment possibilities for trained workers in the hospitality sectors as conceived which affected the skill development initiatives of the organization adversely. Though workers were trained to undertake specialized tasks, the demand for a multi-task worker affected the employment of trained workers even in private homes. Even when they were hired for specific tasks the resistance to pay according to the skill levels of workers was another issue.

It was after the failure of these attempts that the organization started its focus on part-time domestic workers, as has been shared by one of the staff. “Then we thought if we cannot have full-time worker’s contract then we will try to make contract for part-time workers. So then we targeted the place where they were working and talked to many employers about contracts and its benefits”. Now, the cooperative is mostly involved in formalizing contracts of part-time domestic workers and there were about 55 active contracts during the study. A copy of the contract for full-time workers is given in Fig. 13.1.

Of the existing contracts, that the cooperative was involved there were only two live-in workers and both these workers were working outside the state—one in Delhi and the other in Calcutta. The organization also has

EMPLOYMENT CONTRACT

This Employment contract is being made today on (date, month and year of the contract between

(Domestic Workers)

And
(Employer)

And

Domestic Workers Co-operative

On the following facts and conditions:

- a) That employer needs a Domestic Worker;
- b) That domestic worker is a member of Domestic Workers Self-supporting Co-operative Society and she does a domestic work;
- c) That Cooperative Society is registered under
- d) That domestic worker will do the work like patient care, cooking, washing dishes for the employer;
- e) That domestic worker will come to work at scheduled time;
- f) That employer will pay rupees ten thousand and five hundred (Rupees 10,500/-) per month by the 10th of every month to the domestic worker, in the form of a salary for the domestic work;
- g) That Weekly leave will be given to the domestic worker once in a week by the employer;
- h) That domestic worker will not take leave without prior notice, but an accidental reason would be an exception;
- i) That the employer will pay the worker a month's salary as a bonus, once in a year;
- j) That the employer will give 15 days' leave for the worker once in a year. The worker can take this holiday, as per needs.
- k) This Employment Contract can be cancelled on one month's notice by the Employer and Domestic Worker;
- l) That Employer will protect the safety of their belongings. Domestic worker will also work honestly;
- m) That as long as the domestic worker is working at the home of the employer, the responsibility of the worker's safety will be on the employer;
- n) That in case of any kind of dispute, the Cooperative Society will help in resolving the problem without favoritism.

In the presence of the following witnesses, Employer, Domestic Worker and Cooperative Society signed this contract with an independent consent before the Authorized Officer.

Domestic Worker **Witness**

Employer

Co-operative Society

Fig. 13.1 Employment Contract. Source: Author, from the field study

Table 13.1 Salary payable for domestic work (in Indian Rupees)

<i>Types of work</i>	<i>2 Rooms per person</i>	<i>3 Rooms per person</i>	<i>4 Rooms per person</i>	<i>5 Rooms per person</i>	<i>6 Rooms per person</i>	<i>Comment</i>
Sweeping and mopping	700	800	900	1000	1100	Second time only ₹200 for two rooms for broom and ₹100 for every extra room
Dump/dusting	700	900	1100	1300	1500	Just once a day
Washing dishes	600	700	800	900	1000	This rate is only for one time Double pay to wash dishes for the second time
Washing clothes (by hand)	1000	1200	1400	1600	1800	
Vegetable cutting, masala grind and flour dough	600	700	800	900	1000	This rate is only for one time
Cooking	2500	3000	3500	4000	4500	For the second shift, ₹2000 for two persons and ₹500 for each additional person

Source: Constructed by the author from the field study

come out with a brochure which specifies the services of the cooperative including the various tasks and the wage rates (Table 13.1) for publicity of the cooperative which all the member workers are also advised to follow.

However, many cooperative workers are still without any formal contracts and many workers have contracts with one or two employers and with the rest they are unable to finalize. The functions of the union and the cooperative do overlap sometimes since the cooperative is a subset of the union. As discussed earlier many of the office bearers of the cooperative are also active union leaders. The union is involved in the publicity of the wage rate card in the district and holds meetings and discussions with all domestic workers and labour department. Discussions around wages in union/cooperative meetings were shared by many workers as contentious and unpleasant as many

members wanted to negotiate wages at an individual level with their employers. On the absence of contracts for existing members, it was pointed out by one of the staff that “Sometimes workers are hesitant to make the contract so in that case we don’t force them as long as their relationship with employers is good”. On the question of not having a written contract as promoted by the cooperative one member responded, “But I myself don’t want. I feel like I have been working for them from a long time and moreover they always help me in times of need”. The personal nature of the occupation combined with increasing uncertainty in employment possibilities at a larger level and sustained dependency on employers in the absence of any state support are issues that may explain the reluctance of workers to accept formal contracts. These dimensions are further analysed in the next section.

The process of formulating and finalizing the contract starts with workers’ readiness to initiate the process. The details of the contract are found to be flexible. On the process and the details of the contract it was shared that “The workers go first with the contract and we tell them what all they have to explain to the employer. If the employer is not able to understand then someone from the office goes to explain. We have a model contract and if there is negotiation we make some changes. In the model contract earlier we had this clause that the mall management or other places that we had thought to place workers, they would pay 10% extra apart from salary to the worker as social security. In the original contract we also had this clause that the worker will also contribute 10% of her salary for their social security so that they have insurance. When this did not work ... we decreased it to 5% but then also some agreed and some did not. So the contract was individually designed and we did not negotiate on some terms in the model contract. Some workers get their salary in their bank account and some don’t. The salary is given as per the rate cards which is circulated to the employers. We provide contracts with identification from notary in the court; there are signatures of the worker, employer, cooperative and two witnesses, and all the conditions of the work are written in it. In case of emergency or any dispute, the cooperative is there to handle it without being biased”. Since all the workers (except two) are part-time workers and working at their individual level, the cooperative does not foresee any direct intervention or areas of negotiations as far as employment arrangements of the workers are concerned. There has been no separate meeting of the cooperative or its members, and matters related to cooperatives and also work-specific issues are discussed in the union meeting. Some members of the cooperative shared about two local-level meetings after the formation of the cooperative in specific locations where the discussion was about business plans on poultry farming and making/selling of pickles.

5 FORMAL EMPLOYMENT CONTRACTS VERSUS INFORMAL WORK RELATIONS

Though the language of employment contracts dominates the current discussions on working conditions and employment relations in the sector and the organization is also pushing for formal contracts, in reality there are issues. The initiative studied believe in and demarcate themselves as organizations providing better wages and ensuring dignified conditions of work including concerns of safety. It has an open membership structure that allows new members to join. The existence of the cooperative in the recruitment and placement of workers and in ensuring basic conditions of work is encouraging. However, there are a number of issues that need to be addressed.

The employer-employee relationship that characterizes most domestic work relationships is one of wage labour and symbolic contract, with various levels of personal relationships existing side by side. The increasing awareness among workers about their rights, their membership in unions/associations and so on is not easily accepted by employers and there are tensions. Even when workers are otherwise ready to suggest the wage-labour relationship or formal contracts, the economic vulnerability of workers makes them opt for informal arrangements as extra wage benefits are critical to the survival of these workers. Workers were found to support practices that are rooted in feudal patronage-based employee-employer relations which entitles them to additional payment in kind, access to loans, used clothes, utensils, appliances and gifts on festivals. Further, relations between employer and employee are often not limited to work and do spill over to personal spheres such as support network for domestic violence and so on. The fact is that many members who are part of the union/cooperative are not able to negotiate with the employers for better conditions of work. One of the workers who is an active member of the cooperative works in a house where there are 16 rooms and 14 members and goes for work twice a day for about five hours. The work includes sweeping, cleaning and washing utensils. She gets only ₹2200 per month for this work and is reluctant to ask for any wage revision given her long relationship with the employer. Thus many workers agree for lower rates and find it difficult to negotiate wage increases and other working conditions as these may affect their personal relationship with the employers. Employers are often shared by many workers a source of support during contingencies. This explains the prevalence and continuation of non-wage relationships even when the workers are members of union or worker cooperatives. The continued

prevalence of patronage makes workers less likely to identify themselves as workers and though they are part of the organization their engagement and commitment to labour rights are concerns. Even leaders who may be part of the campaign for the implementation of Minimum Wages Act are found accepting conditions of work which are highly exploitative.

It was found that workers undercut their wages to get employment and hence the rates suggested by the collective are negotiated only by a negligible proportion of workers. The tension around wages and employment was evident in many conversations. On the questions of rate cards and its status, one worker replied, “Yes we do follow.... But not everyone belongs to our group, so they don’t really follow and that’s why we face problem because they are willing to work even at lower prices. Like the other day when I approached a madam and told her that I have time and willing to work and will charge 1500, she got shocked and appointed somebody else who is now working for 1000. We ask even those who are not in the collective not to work for lesser money, but they don’t listen. They in fact stop talking to us only”.

Even when workers were receiving payments on par with rate cards suggested by the cooperative/union, leave was a contentious issue. Regarding weekly leave that the contract emphasizes, workers had an issue as many workers who are migrants from other districts preferred to take leaves together so that they can visit their villages. As one worker shared, “15 days annual leave no employer will give with weekly leaves; that is why we don’t take weekly leaves, we keep it together for any contingency, sometimes to visit our villages. If we take too many leaves the employer may get another worker”. Personal relations with the employer also sometimes determine the number of days of leave and the timing of leave. “I don’t take leaves on a week day as didi (sister, reference to the employer) has to go for work, I always consult her and then take leave if it is not a contingency.” These issues are often accentuated due to the fact that the organizations they are part of are seen as external to their life, as the organizations that represent them have origins in the efforts of people who have different social and economic backgrounds. The organization and union though are in existence for many years, they are managed entirely or majorly by the staff, and many workers see themselves as beneficiaries like in any other social security programmes.

Another important challenge for an NGO-union involved in recruitment and placement of workers is their conflicting objectives. On the one hand, the organization acts as a business enterprise and thus there are market pressures that any such organizations face. Though the organization

tries to weave value-oriented goals of empowerment for workers or women the conflicting objectives often pose challenges. The organizations follow or hold a dual structure system for domestic workers—a union-cooperative model—apart from the supporting organization having a separate identity. The model seeks to build ties between worker cooperatives and unions, providing possibilities for combining cooperatives' principles with that of workers' rights and collective bargaining. This union-cooperative model institutionalizes a link between cooperatives and unions. Though this is probably the best method from the perspective of organizational functioning, it creates confusion in the minds of workers as many are not able to separate the two. Many of the cooperative members and leaders are trade union leaders though there is no formal tie between the two.

Further, there are issues with the nature of intervention that the organization and the union are engaged in. Engagement in local-level community issues though increases the acceptance of the organization at the local level, its identity as a domestic workers' organization becomes secondary. This brings in issues in collectivizing around domestic work and thus in union membership. Further, issues of ad hocism and individual orientation in cases of non-payment of minimum wages, long working hours and arbitrary dismissals remain mostly unaddressed.

One of the most important limitations of the NGO-union-cooperative model is the limited scale of operations. The organization on its own cannot change the conditions of work dramatically for its members as the issues and vulnerabilities of the industry as such are challenges. The fact that there is not much difference in the income levels of workers who are in the organization as compared to other systems of employment is a reality that may affect the expansion of such initiatives. Further, as sighted by one worker, "The problem with taking weekly leaves is that if I take leave on Sundays then some other worker will be ready to work on Sundays and then the employers will hire those workers only". Job insecurity and competition among workers is thus an added factor that reduces their engagement in union/cooperative activities. Another obstacle for getting workers to fight for their rights is their social location which leads to a dependency relationship with organizers and important decisions are often left to the organizers. Most workers know little about how the union/cooperative is founded, funded, managed and grown. On being asked about their participation in election there was not much response from many workers. Workers were not sure about the purpose of the election and why the executive body is elected. The members including local leaders could not share the details of

members in the executive committee of the union/cooperative. Workers who participate in the organizing activities see it as an external work and many even feel that compensation is required from the organization for the time spent in mobilizing and advocacy activities.

6 CONCLUSION

The analysis suggests that though wage-labour relationship or formal contracts are important pathways for addressing the informality of domestic work, it brings to the forefront the social and economic vulnerability of domestic workers. Extra wage benefits are critical to the survival of many workers which explains the prevalence and continuation of informal personal relationships even when there are possibilities for formal contracts. Non-wage relationships that are rooted in feudal patronage relations, which entitles them to additional payment in kind, access to loans, used clothes, utensils, appliances and gifts on festivals, are critical and thus may work against any attempts towards formalizing the sector. It is difficult to replace the patronage-based practices at one go, though workers themselves are aware of the issues of informal relations. Unless support mechanisms and welfare provisions are brought in gradually to replace their dependence on employers, it is impossible to break away from all patronage-based relations. In an overall context of employment crisis, workers do have to ensure employment and this is sometimes ensured at the expenses of lower wages or poor conditions of work. There is a need to acknowledge these larger issues during all the interventions in the sector be it when formulating policies/regulations or organizing workers.

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An Ongoing Battle for Rights: The Case of *Anganwadi* Workers with Special Reference to Maharashtra

Suchita Krishnaprasad and Karan Peer

I INTRODUCTION

Sound health and education are both means to an end of the process of economic development. Since good health begins with children and expectant mothers, a programme was launched by the Government of India called **Integrated Child Development Services** (ICDS) in 1975 to combat child hunger and malnutrition. Even today the existing network of health services

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in India requiring qualified allopathic doctors, trained nurses and well-equipped hospitals is far from adequate. As per the National Health Profile released by the Central Bureau of Health Intelligence in 2018, the country has a very poor doctor-population ratio, 1:11,082, which is ten times lower than the ratio recommended by the World Health Organisation. *Anganwadi*, which literally means ‘courtyard shelter’ in Hindi, was started as part of the ICDS. An *anganwadi* is operated with a *sevika* (worker) and a helper, both women. The number of operational *anganwadi* centres in the country was 1,349,091 in December 2015. The top five states with the highest number of operational *anganwadi* centres in that year were Uttar Pradesh, West Bengal, Maharashtra, Madhya Pradesh and Bihar, which together accounted for 44 per cent of the total number of operational *anganwadi* centres in India. Maharashtra has 1.10 lakh *anganwadi* centres that are operated by nearly two lakh volunteer-workers.¹ In 2018, 2.2 lakh vacancies were reported for the post of *anganwadi* workers (AWs) at the national level.² Despite their contribution in reducing infant mortality significantly and creating authentic information base of community health, which easily yields itself for policy purposes, they are offered a very meagre honorarium, which differs significantly across the country, not to mention the dire physical working conditions of these centres. Ironically, those who devote their services to the well-being of the weaker sections of the society are themselves deprived of decent remuneration and a safe working environment. This is an attempt to understand the living and working conditions of these women workers and their long battle against the state to improve their lot, even as they continue to add tremendous value to the lives of the beneficiaries of ICDS.

¹ See <https://community.data.gov.in/operational-anganwadi-centres-awcs-as-on-31-12-2015/>. Accessed on 23 July 2018.

² ‘Govts sit on 24 lakh vacancies amid debate over job drought’. Times of India, 05 August 2018.

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2 THE ANGANWADI SYSTEM: STRUCTURE AND FUNCTIONS

An *anganwadi* is sanctioned per 1000 people. It is managed by a health worker/*sevika* and a helper. Every 20–25 *anganwadi* workers are supervised by one *mukhya sevika*/supervisor. Four supervisors are headed by a child development projects officer (CDPO). An *Anganwadi* worker (AW) and an *Anganwadi* helper (AWH) are chosen from the community to eliminate the cultural gap between the providers of the modern health-care system and its potential beneficiaries in distant parts of the country. The supervisors, promoted from among the Awhs, provide on-the-job training to these workers.

An AW's multifarious role requires managerial, education, communication and counselling skills. The various job responsibilities of an AW are³:

- **Planning for Implementation of ICDS Programme**
 - village mapping
 - building rapport with the community
 - conducting community survey and enlisting beneficiaries
 - birth and death registration
- **Service Delivery**
 - preparation and distribution of supplementary nutrition
 - monitoring growth of children (0–6 years)
 - promoting breast feeding and counselling mothers on Infant and Young Child Feeding (IYCF)
 - assisting health staff in immunization and health check-up of children and mothers
 - referral services
 - detection of disability among children
 - providing treatment for minor ailments and first aid
 - management of neonatal and childhood illnesses
 - health and nutrition education to adolescent girls, women and community
 - organizing non-formal preschool education activities
 - depot holder of medicine kit contraceptives

³ Handbook for *Anganwadi* Workers, National Institute of Public Co-operation and Child Development (NIPCCD), 2006. Accessed on 20 July 2018.

- counselling woman on birth preparedness
- assist CDPOs/supervisors in implementation of *Kishori Shakti Yojana* (KSY)⁴ and Nutrition Programme for Adolescent Girls (NPAG)
- **Information, Education and Communication**
 - communicating with counselling parents, families and communities and so on
 - organizing awareness campaigns, street plays and so on
 - prepare communication and educational material
- **Community Contact**
 - mobilise community and elicit community participation
 - maintain liaison with panchayat, primary schools, *mahila mandals* (women organizations) and health functionaries and so on
- **Management and Organization**
 - management of *Anganwadi* centre (AWCs)
 - maintenance of records, registers and visitors' books
 - preparation of monthly progress reports

The role of AWH is to help out AWs to carry out their general and specific duties.

Recently, Ministry of Woman and Child Development (MWCD) issued implementation guidelines to state governments/Union Territory (UT) administrations⁵ for *Beti Bachao Beti Padhao* (i.e. save and educate the girl child, BBBP) scheme. This move has increased the workload of already overworked AWs. Some of the new duties assigned to them under this scheme are:

- promoting effective implementation of Mother & Child Protection Card (MCPC) by AWs/ASHAs across the continuum;
- initiating campaign to re-enrol school dropouts, retention and completion of secondary education of girls—through massive joint

⁴ *Kishori Shakti Yojana* (KSY) seeks to empower adolescent girls and provide them with an opportunity to realize their full potential. The broad objectives of the scheme are to improve the nutritional, health and development status of adolescent girls, promote awareness of health, hygiene, nutrition and family care, link them to opportunities for learning life skills, go back to school, help them gain a better understanding of their social environment and take initiatives to become productive members of the society. See: <http://wcd.nic.in/kishori-shakti-yojana>. Accessed on 20 July 2018.

⁵ *Beti Bachao Beti Padhao* Scheme, Implementation Guidelines, 2018. See: <http://www.wcd.nic.in/sites/default/files/BBBP%20Guideline.pdf>. Accessed on 20 July 2018.

village contact drive, using AWs, ASHAs and community/women/youth groups;

- government functionaries at grass-roots levels like AW, ASHAs, CDPOs and so on may serve the role of champions to promote education for girls; and
- monitoring birth registration and sex ratio at birth (SRB) through the AW, ASHAs and panchayats.

The last in the list of jobs indicates the recognition by policymakers of the vital role played by the AWs and high level of trust enjoyed by them in the neighbouring community, though it pushes even more load on them.

The supervisors are responsible for an overall overseeing of functioning of *anganwadis* under their jurisdiction, which includes training the AWs on the job, ensuring that the beneficiaries hail from low economic status, maintaining statistics and submitting reports to the child development projects officer time to time with a continuous update of information to be filled in 20 odd registers,⁶ along with suggestions regarding further actions towards improvement of a service as and when needed. Besides this, every state government may conceive its own welfare programmes to be carried out by the AWs. For example, in Maharashtra, AWs are required to submit reports of various events they have to organize, such as a week-long programme on gender sensitization, *Kanya Diwas* (Women's Day) in honour of Savitribai Phule, de-addiction campaigns, hygiene awareness programmes and so on.

3 WORKING CONDITIONS

A typical day of an *anganwadi* worker begins at 10:30 a.m. with prayers followed by playgroup activities for children under the age of six. Tiffin is provided to children consisting of dry snacks around midday, after which *sevikas*/workers go for field visits. This is when they collect data on health of children, pregnant women and new mothers through their house visits. After returning from field trips, reports are prepared every day, relating to the various functions vested with the *sevikas*. On an average these records have to be placed in appropriate registers and updated on a daily basis.

⁶The number of registers to be maintained varies from State to State and also between urban and rural areas. We learnt from Ms. Sangitha Kamble, AW from Trombay, that as many as 16 registers have to be maintained, giving quite complex details (interview on 29 July 2018), in Mumbai.

The workers are entitled to 16 casual leaves per year. They are also entitled to 8 days of leave on the account of Diwali, 16 days of summer holidays and holidays on various celebrations, which makes it a total of 52 days.⁷ The wages of *anganwadi* workers are interestingly and even contestably termed ‘honorarium’. When the scheme began in 1975, honorarium was ₹125 for *anganwadi* workers who could not complete secondary education (SSC in India) and ₹175 for those who could complete it; the helpers were paid ₹50. These workers were eligible for an annual increment of ₹31 only after they completed five years of service. Induction training and job training for AWs is conducted for a duration of 40 days at various *Anganwadi* training centres (AWTCs). The norm for refresher training is six days of training every two years for Awws.⁸ They often go leaving their families behind and are graded for these trainings, but this ‘merit’ does not get reflected in their pay unlike in a typical formal workplace.

When announcing the 2008–09 Budget, Indian Finance Minister P. Chidambaram stated that remuneration of *anganwadi* workers would be increased from ₹1000 per month to ₹1500 per month and that of helpers from ₹500 to ₹750 per month.⁹ By 2011–12, the honorarium for *anganwadi* workers was increased to ₹3000 and helpers to a meagre ₹1500 per month. There have been nine revisions by the central government and only five revisions by the state government in the last 35 years. It must be mentioned here that the issue of fixation of honorarium rests with both the central and the state governments, leading to discernible discrepancies across states in both real and nominal terms. This is amply indicated by Table 14.1.

At the very outset it must be borne in mind that this is an honorarium and not a wage, which means that it is not subject to an automatic upward revision to compensate for inflation. It is further distressing to note that in some of the above states it is less than the minimum wage level.¹⁰

⁷The MAKs is proposing to ask for summer vacation in May to avoid extreme heat, water and power shortage typically faced during these months. Also families are most likely to move to native places due to school vacations, leading to large-scale absenteeism during this time.

⁸World Bank Report, Institutional Arrangements for Nutrition in India, 2014. Accessed on 20 July 2018.

⁹2008–09 Budget speech by former Minister of Finance P. Chidambaram. See <https://www.indiabudget.gov.in/ub2008-09/bs/speecha.htm>. Accessed on 20 July 2018.

¹⁰See Appendix Table 14.2.

Table 14.1 Rates of honorarium for AWWs and AWHs in selected states in India for 2017 (figures in Indian rupees)

<i>State</i>	<i>Honorarium for AWWs</i>	<i>Honorarium for AWHs</i>
Puducherry	19,480	13,330
Kerala	10,000	7000
Haryana	7500	3500
Andhra Pradesh	7200	3600
Telangana	7200	3600
Tripura	6500	3200
Delhi	6000	3000
Assam	6500	3250
Maharashtra	5000	2500

Source: Compiled from the MAKS office and <https://data.gov.in/search/site?query=honorarium>, accessed on 25 July 2018

Note: Based on government notifications as compiled by *Maharashtra Anganwadi Karmachari Sanghata* (MAKS), Mumbai

Considering that the volunteers themselves may hail from income levels not enviably higher than poor, the term ‘honorarium’ and the amount paid under that head are nothing short of a mockery.

The work premise of the *anganwadis* is yet another worrisome issue. There are different sets of problems in urban and rural areas in this context. In urban areas the *anganwadis* mostly operate from rented premises. Shortage of space and rise in rent are routine problems faced here. There are cases where landlords lock the premise space due to non-payment of rent¹¹ and others where workers have paid rent out of their pockets to preserve or continue in their employment.¹² The amount provided for rent is ludicrously small in some cases,¹³ forcing the workers to settle down with venues such as temples or mosques. While various state governments

¹¹ <https://indianexpress.com/article/cities/delhi/students-given-food-in-the-open-no-rent-for-four-months-landlord-locks-up-anganwadi-centre-5105166/>. Accessed on 25 June 2018.

¹² <https://timesofindia.indiatimes.com/city/dehradun/anganwadi-workers-in-doon-paying-rent-from-own-pocket-to-save-jobs/articleshow/61969032.cms>. Accessed on 25 June 2018.

¹³ The rent allowance was ₹750/- per month in 2011 in Maharashtra. This is an unthinkable amount in a metro like Mumbai. <https://www.livemint.com/Politics/BLKSJwLlFqNAa1wzgXNFMN/Preschools-leave-no-room-for-learning.html>. Accessed on 25 June 2018.

have announced hikes in rent from time to time,¹⁴ the moot question is whether it is delivered on time. There have been cases of non-release of rent amount by some state governments for as long as two years.¹⁵ Though the probability of *anganwadi* workers in rural areas operating from their own premises is higher, the situation seems to be rapidly changing with time and it is not unusual to witness a rise in the number of rural centres with rented accommodation (Sembiah et al. 2017). Unsafe and uninhabitable structure is another problem usually faced by rural centres¹⁶ besides unhygienic drinking water or no facility of drinking water.¹⁷ The pressure of work has pushed a few workers to end their lives. A 54-year-old *anganwadi* worker allegedly committed suicide in the Parbhani district of Marathwada, Maharashtra, due to excessive work pressure and non-payment of her salary for months. Due to unavailability of funds, she was running the *anganwadi* from a temple premise, but instead of appreciating her for this initiative, she was being pressurized by government officials for records from 2008, without even providing adequate stationary to comply with this demand.¹⁸ The result was that she met such a tragic end.

4 DEMOGRAPHIC AND SOCIAL PROFILE OF *AWs/AWHs*

The early recruits in *anganwadis* were typically married, widowed or divorced women from poor families with high school education, who needed the job to support their families (Thakare et al. 2011). This clearly indicates that workers who are in charge of supporting the health of families

¹⁴ In 2013, the rent for *anganwadis* in Bengaluru was increased in rural, urban and *Bruhath Bengaluru Mahanagara Palike* (BBMP) limits. The revised rent for *anganwadi* centres in rural and tribal areas was hiked to ₹750, from ₹200. In urban areas, the rent was increased to ₹3000 from ₹500. And in BBMP limits, the rent was increased from ₹750 to ₹5000. <https://www.thehindu.com/news/cities/bangalore/monthly-rent-allowance-for-anganwadi-centres-increased/article5058833.ece>. Accessed on 23 July 2018.

¹⁵ <http://www.tribuneindia.com/news/bathinda/anganwadi-centres-grapple-with-shortage-of-funds/536907.html>. Accessed on 25 June 2018.

¹⁶ In July 2012, in two separate incidents of wall collapse of *anganwadi* centres in Odisha, 7 toddlers were killed and 18 others injured. At least four children were when wall of an *anganwadi* centre collapsed in Nayagarh district of Odisha on Monday. Sources said when 22 children were having their midday meals. http://zeenews.india.com/news/odisha/anganwadi-wall-collapse-toll-mounts-to-7_786653.html. Accessed on 25 June 2018.

¹⁷ https://indiawater.gov.in/IMISReports/Reports/BasicInformation/rpt_RWS_ReportDetailsOfSchools_S.aspx?Rep=0&RP=Y. Accessed on 23 June 2018.

¹⁸ See <https://www.firstpost.com/india/anganwadi-worker-commits-suicide-in-maharashtra-parbhani-district-54-year-old-had-alleged-non-payment-of-salary-4199021.html>. Accessed on 20 July 2018.

Below Poverty Line were themselves not very far away from it in terms of status.

Over the years the demographic profile of AWs/AWHs has changed significantly. Almost all the younger recruits hail from a more comfortable financial family background than their predecessors and have completed their secondary education.¹⁹ There are many graduates and a few post-graduates too.²⁰ Having said that, it needs to be noted that given a low turnover, a considerable number of these workers even today still hail from socially and/or economically underprivileged classes of the society.²¹

5 THE BALANCE OF RIGHTS, RESPONSIBILITIES AND THE MORALE OF AW AND AWH

The long list of tasks, unsafe working conditions, inadequate facilities at work and a meagre ‘reward’ they get in return indicate a highly lopsided ratio of rights and responsibilities faced by these workers. On the ‘rights’ side, one sees frail compensation with no built-in increments/promotion. Besides this, since they are not defined as ‘workers’, they are not covered by labour laws and hence are not entitled to social security like Employees’ Provident Fund (EPF), Employees’ State Insurance (ESI), maternity benefits, accident compensation at work, gratuity and so on. This is an impediment to achieve Sustainable Development Goal (SDG) 1.3 which “implement nationally appropriate social protection systems and measures for all, including floors, and by 2030 achieve substantial coverage of the poor and the vulnerable”. These concerns have been raised at the national tripartite forum as well. For instance, at 45th and 46th session of Indian labour conferences, it was noted that AWs are not covered under social security insurance schemes such as *Aam Aadmi Bima Yojana* (AABY) and *Rashtriya Swasthya Bima Yojana* (RSBY). The AWs were only eligible for

¹⁹ A senior AW revealed in an interaction (on 07 July 2013) how the new recruits ridicule the ‘petty raises’ the protests have been able to eke out and whether it is worth the effort after 20 years of service, as there is hardly any difference between their pay and that of a fresh recruit. Another AW noted that their children, as fresh recruits, earn a lot more in BPOs than them after such a long and fatiguing struggle. These are the changing realities on ground that could affect the zeal and fire that bind these workers to the movement.

²⁰ I confirmed this through my interaction with Ms. Shubha Shamim on 24 June 2018.

²¹ A study of Kerala AWs shows that representation of Scheduled Castes and OBCs in AWs was larger than their share in population or government departments. <http://www.cds.ac.in/krpcds/seema.pdf>. Accessed on 28 April 2016.

the *Swaylamban* scheme, which is a defined contribution pension scheme.²² In 2017, the EPF Organisation (EPFO)'s central board of trustees (CBT) recommended to the central government to consider issuing a notification for extending social security benefits to the volunteers of various scheme workers, that is, *anganwadis*, ASHA and midday meal workers under the ambit of EPFO.²³ But the notifications regarding social security cover for AWs and AWHs have not been issued yet by the central government.

Besides, there's no hedge against inflation in the form of dearness allowance, since what they receive is honorarium and not wage. Lack of worker status and compensation not seen as wages are two aspects of their employment which make them more vulnerable than the typical informal workers, who are at least characterized as workers, receive wages and in some cases entitled to social security benefits. On the other hand the list of tasks and responsibilities, as mentioned earlier, is long, which requires multiple skills including a lot of paper work, apart from constant involvement with the community, which can consume a lot of energy. Also, with their grass-roots level network, the *anganwadis* are easily looked at as ready facilitators for implementation of any new government project²⁴ as well as collection of data to provide base for policy revisions.

With these Dickensian conditions of working and living, one would have expected *anganwadi* workers to be demoralized and disillusioned, discharging their tasks with a mechanical mindset, helplessly looking for an escape, but surprisingly, most studies note a very high level of motivation among these workers. Our personal interactions with a small group of *anganwadi* workers in Thane (dated 7 July 2013) affirmed the findings of these studies. The women, most of whom had an experience of over two

²² For 45th ILC, https://labour.gov.in/sites/default/files/45th_ILC.pdf. For 46th ILC, https://labour.gov.in/sites/default/files/46-ILC-Record_of_Discussion.pdf. Accessed on 22 July 2018.

²³ The Employees' Provident Fund Organisation (EPFO)'s central board of trustees (CBT) on Thursday decided to extend social security benefits to over 61 lakh unorganised workers. <https://www.thehindu.com/news/national/social-security-cover-for-scheme-workers-soon-epfo/article17744228.ece>. Accessed on 23 July 2018.

²⁴ For instance, in 2015, the Maharashtra government launched Dr. APJ Abdul Kalam *Amrut Abaar Yojana* (a scheme to ensure nutritious meals to pregnant mothers wherein the AWs are required to procure the grocery, cook the prescribed meal and serve it at the doorstep of the beneficiary!) This was in addition to the other routine work mentioned earlier. <https://www.maharashtra.gov.in/site/Upload/Government%20Resolutions/Marathi/201608021325159824.pdf>. Accessed on 25 July, 2018.

decades in this field, are proud of their contribution to the society. Their job has won them affection and respect in the neighbourhood community. They expressed a sense of fulfilment in watching the kids, who were once in their care, growing up into responsible citizens pursuing respectable professions. Many admitted that they themselves have learnt a lot about health, hygiene and nutrition through their training and on-the-job experience. They are looked upon as counsellors to handle family disputes in the neighbourhood. They have become more politically aware with the exposure to information on various government schemes and methods to access them. They are looked upon as genuine repositories of grass-root level information on community health by the government machinery as well, as noted before. Studies have lauded their role as key informants in identifying disabling conditions such as blindness (Parker 2007).

6 ORGANIZED ACTION AND MAJOR ISSUES

Perhaps it is this empowering process of acquiring a respectable status in their community, though hailing from lower ranks in the society, that has helped these women in galvanizing their collective voice for a decent remuneration and working conditions. They have defied the factors that are proverbially known to constrain the formation of workers' union, such as a wide geographic spread affecting communication of organizing protests and its modus operandi, long working hours to be balanced with family responsibilities and a poor educational background. Since they work for a government project, but not as government employees, they cannot make use of the formal course of grievance redressals that are available for the latter. Further, a high level of commitment towards work among these workers could possibly create a moral block against strikes or any other forms of protests.

Though initially it needed persuasion and persistence to get these workers together,²⁵ they bonded swiftly not just at the state level but also at the national level when, in 1989, a seminar was held in New Delhi by the

²⁵ In her personal interview (07 July 2013), Ms. Maya Parameshwar, Former Secretary, MAKS, revealed how they had learnt to identify an AW with a mere glance at a passer-by woman having a bag on her shoulder! The activists would simply approach such ladies and on confirming that they were indeed working for an *anganwadi*, they began to discuss their issues. The other mode was to simply ask any villager about the *anganwadi* in the vicinity and directly approach the workers over there. Other options were catching the AWs at their monthly meeting place or even at the training centres.

Government of India. All India Federation of Anganwadi Workers and Helpers (AIFAWH) was formed by the Centre for Indian Trade Unions (CITUs) in that national convention. Its first conference was held in Udaipur in Rajasthan in 1991 with Vimal Ranadive as President, Bhabatosh Roy as Working President and Neelima Maitra as the General Secretary. Subsequent conferences were held in Calcutta in 1994, Bhopal in 1998, Puri in 2002, Bangalore in 2005 and the sixth conference in Chandigarh in 2009. There are seven major organizations of AWs in Maharashtra, which are:

- *Anaganwadi Karmachari Sanghtana*, Worli, Mumbai
- *Maharashtra Rajya Anganwadi Karmachari Sangh*, Thane
- *All India Trade Union Congress*, Prabhadevi, Mumbai
- *Anganwadi Karmachari Sabha*, Sindhudurg
- *Maharashtra Rajya Anganwadi Sevika ani Madatnis Mahasangh*, Latur
- *Maharashtra Rajya Pu. Pra. Sevika ani Madatnis Mahasangh*, Kolhapur
- *Kolhapur Jilha Anganwadi Karmachari Union*

These unions work together under a common platform of *Maharashtra Rajya Anganwadi Kruti Samiti*, which came into existence in 2010. The broad demands of the *Samiti* and the All India Federation of Anganwadi Workers and Helpers²⁶ are:

1. universalize and institutionalize ICDS
2. roll back the budget cuts in ICDS from 60 per cent to 25 per cent and allocate adequate funds for ICDS in the Central Budget
3. immediately stop the move to introduce direct/conditional cash transfers and mandatory *Aadhar* linkage for ICDS services
4. stop privatization of ICDS in any form
5. oppose provision of packaged food in ICDS instead of hot cooked food
6. oppose the move to introduce nursery schools in *anganwadis* and
7. implement the recommendations of the 45th and 46th Indian labour conferences' recommendations to recognize *anganwadi* workers and helpers as workers, pay them minimum wages not less than ₹18,000 per month and provide them social security including pension not less than ₹3000 per month

²⁶As per the press release dated 9 July 2018. Source: Office of *Maharashtra Anganwadi Kruti Samittee*.

7 THE JOURNEY OF ORGANIZING ANGANWADI WORKERS: MAHARASHTRA RAJYA ANGANWADI KARMACHARI SANGHATANA, A CASE STUDY

Maharashtra Rajya Anganwadi Karmachari Sanghatana (MAKS) was formed in 1987, with the backdrop of the disastrous textile strike of 1982 in Mumbai. The strike that devastated lives of millions of people in an industry that was once a cradle of the labour movement in India stood in the immediate neighbourhood. Under such odds, it was with a sheer determination and conviction of purpose that Com. M.A. Patil saw an opportunity in organizing the unorganized workers, mainly in government departments like forests department, public works department, power department and so on, where the grass-roots level operators working on contract/temporary basis were sought to be brought together. Through personal interactions with these workers Com. Patil came to realize the dismal conditions of *anganwadi* workers. With its establishment, in 1987, MAKS brought the AWs from the Thane-Bhiwandi area on one platform. This was followed by personal visits by a dedicated band of activists across distant parts of the state who established communication with AWs in every area with a direct one-on-one approach. In 1989, MAKS had an opportunity to access several AWs in a seminar held in New Delhi by the Government of India under the flagship of Prime Minister's Office (PMO). The objective was to position *anganwadis* as facilitators in the implementation of various government policies. In the very next year, MAKS grew to become a part of a nation-wide federation. This, therefore, is certainly one important case of a worker's organization which has simultaneously ensured that hierarchy within the organization does not diminish the fire of the movement and vice versa. There are many interesting and valuable fallouts of this process.

- There has been a steady increase in the honorarium of both AWs and AWHs, though their pay still remains nearly one-tenth of the pay of a typical government servant, whose work is mainly constrained to the limits of the office walls, with hardly any element of public relations.
- This is one unique instance in the workers' movement where the women workers are not shy of participating in public protests. Not only do they arrive in large numbers in the rallies, but they do not hesitate to use up their casual leaves to be present at the *morchas* (protest marches) or *dharnas* (sit-down strikes).

- A typical AW is highly politically aware, which is not too common for the people from the economic class they belong to. It is noteworthy that in several states *anganwadi* workers have won elections at the *gram panchayat*, *taluk panchayat* and *zilla panchayat* levels, though such ‘adventures’, in many cases, have led to their dismissal from services by MWCD.²⁷ Given that even a desire to actively participate in the political process among the socio-economically deprived sections, that too among women, would be a rarity, here we have cases where members from such sections of society have dared to do so and conquered, which speaks volumes about the trust these workers have gained from the society at large, through their service as community health workers.
- *Anganwadi* movement has become a force to reckon with. No authority, neither at state or central levels nor at ministerial or bureaucratic levels, can now afford to trivialize their demands any more, though there have been such occasions in the past. In a lighter vein, the MAKS has more friends ‘on the other side’²⁸ and has received much appreciation from leaders of political parties across the board.
- MAKS has successfully mobilized the energy of this movement to lend effective support to wider social causes such as rights of women.

There has been a series of *morchas* and *dharnas* every year that has gained the attention of policymakers and implementers at district, state and national levels to various demands of the AWs and AWHs.²⁹ In fact, a look at the list of protests reveals the systematic efforts by activists to ensure an ongoing engagement of workers from district to state and to national levels and then back to the levels down. The mobilization of the message across workers in geographic layers operates in a Convection way, that is, from the bottom to top, top to bottom and again from bottom to top. This unique system of communication has made sure that the two elements of movement and organization continue to complement each other.

²⁷ In Karnataka, 12 *anganwadi workers* were dismissed as they were elected in *gram*, *zilla* and *taluk panchayat* elections. See <https://timesofindia.indiatimes.com/city/hubballi/Anganwadi-workers-elected-to-gram-taluk-panchayats-dismissed/articleshow/17632270.cms>. Accessed on 23 July 2018.

²⁸ As revealed in my personal interview by Com. M.A. Patil (as on 07 July 2013).

²⁹ See Appendix Table 14.3.

Workers generally join unions mainly for better wages and working conditions. The fundamental struggle of *anganwadi* workers ironically is the demand for ‘status of workers’ as against that of ‘volunteers’ and their compensation as ‘honorarium’ and not ‘wages’. The status of ‘worker’ fundamentally alters the worldview of these people and also creates a legal and formal basis for erecting an ‘employment relationship’ which in turn entitles an edifice of rights. For example, a worker is entitled to increments, bonus and retirement benefits and an access to grievance redressals under the legal system but not a ‘volunteer’! This lofty status has made the struggle especially bitter and every single hike in the honorarium, even a miniscule one, has come only after street-level protests or strikes. Of course the AW unions in Maharashtra obtained a *bhaubeejif* not a bonus (Maharashtrian tradition of a brother’s gift to sisters on the festive occasion of Diwali) in 1995 for the first time, but that was only after a ‘*gherao*’ (a typical Indian mode of protest in which workers prevent employers or managers from leaving a place of work until the workers’ demands are met) of the then Chief Minister Manohar Joshi. What are deemed as basic rights become privileges to be achieved with relentless struggles and show of strength through massive rallies and street protests. And all this, by a simple swapping of the designation of ‘worker’ by ‘volunteer’! Given these circumstances it indeed sounds like a major achievement when the state government agreed in February 2014 to offer retirement benefits for AWs in the form of a lump sum amount of ₹1 lakh. Of course the unions have also protested for a safer working environment, timely payment of honorarium, appropriate hike in funds allotted for rent and provision of basic facilities needed to cater to the needs of vulnerable sections of the population, namely children and new mothers. But the battle for the status of worker has been the most long-drawn and unique feature of this workers’ movement.

8 TWO-TIERED AMBIGUITY: WORKER VERSUS VOLUNTEER AND GOVERNMENT VERSUS SCHEME WORKER

AW unions struggle not only to assert that their members are ‘workers’, but they also point out that they do more and varied work than an average government employee. Apart from street protests, there have been numerous legal battles to redefine the status of these workers. For instance, workers dismissed for indiscipline have been given relief by the courts. These judgements mention ICDS as an ‘industry’ and the petitioner as a ‘work-

man' and decry that the dismissals are improper since they were carried out without a proper procedure laid down in the Industrial Employment (Standing Orders) Act, 1946, and rules framed therein. For example, in the judgement of *Sau. Vidya Vishnu Vanare v/s State of Maharashtra 2011/CLR 276*, the High Court recognized AWs and AWHs as 'workman' under Section 2(s) of The Industrial Disputes Act, 1947, and ordered redressal of their cases in labour and industrial courts instead of making rounds in the High Court in view of their meagre honorarium.³⁰ Same happened in judgement of *Dy Chief Exec. Officer (Child Welfare) Zilla Parishad, Ahmednagar V/s Ratan Eknath Gund Write Petition no. 129 of 2014* in the High Court Judicature at Bombay Aurangabad Bench. In this case also, the respondent who was terminated on the basis of indiscipline and absenteeism was declared a worker and her employment was termed 'not gainful' and thus was granted full back wages.³¹ Curiously, these judgements provided relief to those who were 'dismissed' for indiscipline, so that the 'more disciplined' workers continue to enjoy the status as 'volunteers', with their battle showing no signs of ending in a hurry!

Having said that, the importance of these judgements can play a crucial role in redefining the status of AWs as workers, and with this, many a knots could be expected to fall undone. The AWs may then have recourse to various acts governing the industrial workers in India. Of course this might not be a panacea for the woes of AWs when the larger scene in the labour market as a whole leaves a lot to be desired (Shyam Sundar 2009, 2015), but it certainly opens up the trajectories that were unthinkable so far. For example, if ICDS is an industry, AWs/AWHs must be recognized as 'industrial workers', and they must be entitled to wages, instead of an honorarium. In fact, following the process laid down in the Minimum Wage Act it might become possible to initiate the implementation of minimum wages in this 'industry', though that may need a political will.

The second dilemma is regarding them being government employees. It may be added here that as per the notification regarding recruitment of supervisors under the ICDS scheme issued in 2015 by MWCD, state governments were required to extant reservation for Schedule Castes, Schedule Tribes and Other Backward Classes, which is a characteristic of recruitment of government employees. This further adds to the existing paradoxes regarding the status of these workers, as on one end the state

³⁰ See <https://indiankanoon.org/doc/426019/>. Accessed on 22 July 2018.

³¹ See <https://indiankanoon.org/doc/171546011/>. Accessed on 22 July 2018.

terms the AWs as ‘volunteers’ but on the other end imposes reservations as in the case of government ‘workers’.³²

This issue was taken up to the international forum when *Hind Mazdoor Sabha* (HMS) raised the issue regarding the terms of employment of female workers in ICDS scheme at the 79th International Labour Conference (ILC) session (1992). In response, the government clarified the status of these women as “local-level women volunteers drawn from the community itself”, which is the *‘bed-rock of the ICDS’* (emphasis added). As such the *anganwadi* workers and helpers are purely volunteers from the community, receiving a small honorarium and not any salary. They are to work for four hours a day in the *anganwadi* and are expected to interact with the community in the villages as volunteers. Treating them as government employees negates the very basis of ICDS. Since these *anganwadi* workers are supposed to be from the same village as that in which the centre is being run, there is no question of them being transferred from one place to another³³ *as in the case of a government employee* (emphasis added).

However this view gets a blow when AWs win elections at local levels, whereupon the respective state governments have asked them to resign as AWs! In the case of *Smt. Bali Devi vs. State Of Haryana And Others* (In the High Court of Punjab and Haryana at Chandigarh on 28 October 2013 *Civil Writ Petition No. 8712 of 2012*), the services of Smt. Bali Devi, an AW, were terminated after she won an election as *Sarpanch* of *gram panchayat*.³⁴ Worse still, some other states have brought out notifications

³² See <http://wcd.nic.in/sites/default/files/Reservation%20of%2050%25%20of%20vacancies%20from%20amongst%20AWs.pdf>. Accessed on 25 July 2018.

³³ See http://www.ilo.org/dyn/normlex/en/Fp=NORMLEXPUB:13101:0::NO::P13101_COMMENT_ID:3299926. Accessed on 23 July 2018.

³⁴ The petitioner was appointed as an *anganwadi* worker on 31 January 1996. Her political ambitions led her to contest the election of *panch/sarpanch* in the *gram panchayat* elections held in Haryana in June–July 2010, but before doing so she sought a clarification from the fourth respondent, that is, programme officer, Integrated Child Development Scheme, Panipat, on whether an *anganwadi* worker can contest the election for the post of *sarpanch* or *panch*. She was informed by the child development project officer, Bapoli, Panipat, that since *anganwadi* workers are paid honorarium, they are free to contest elections. Fortunately for her she won the election on 6 July 2010. She was elected as *panch*. She won the further election of *sarpanch* of *gram panchayat*, Tamsabad. She then started performing the duties of both *anganwadi* worker and *sarpanch*. She was terminated as AW and the court upheld the decision. See <https://indiankanoon.org/doc/147624810/>. Accessed on 24 July 2018.

barring AWs from contesting elections to avoid such an eventuality!³⁵ This view of the state and the Election Commission has been successfully challenged in Court, as in the *Anokh Singh v/s Punjab State Election Commission* case, (*Civil Appeals No. 9485 Of 2010 With No. 9486 Of 2010*, High Court of Punjab) where the Court set aside the view taken by the Election Commission that the AWs should not be allowed to contest elections, due to the possibility of danger of ‘office of profit’.³⁶ The case went up to the Supreme Court,³⁷ which upheld the judgement, ruling that “Honorarium ... is not compensatory”. Of course a few caveats remain. In that, the arguments so far have only centred around the issue of ‘office of profit’, and not that of being a government employee, who, owing to service rules, can contest an election only after resigning from the job.

So, even after a struggle of three decades these workers remain volunteers. They have been praised by ruling political leaders for representing ‘a protective’ *Matrushakti* (motherly energy)³⁸ and contributing significantly to improving the girl child ratio and reducing malnourishment among children.³⁹ Curiously, the importance of the role played by AWs was further underlined, though, as a reaction, when the government considered applying Maharashtra Essential Services Maintenance Act (MESMA) to prohibit prolonged strikes of AWs by an order on 15 March 2018. It was soon revoked under political pressure within a week.⁴⁰ However it is

³⁵ In *Veena Devi vs State Election Commission (SEC) Bihar*, the petitioner who was an ASHA was unseated from post of *mukhiya* of *gram panchayat raj*, Akhtiyarpur, Manjhauli, in the district of Patna, as SEC had issued guidelines whereby it was instructed to all district magistrate-cum-district election officer (*Panchayat*) to hold ASHA workers not eligible to contest the *Panchayat* election. <https://indiankanoon.org/doc/52274058/>. Accessed on 25 July 2018.

³⁶ <https://indiankanoon.org/doc/85913/>. Accessed on 25 July 2018.

³⁷ http://www.supremecourtcases.com/index2.php?option=com_content&itemid=99999999&do_pdf=1&cid=23011. Accessed on 26 July 2018.

³⁸ <http://www.dnaindia.com/india/report-narendra-modi-felicitates-anganwadi-workers-1670100>. Accessed on 25 June 2018.

³⁹ Former Minister, Women and Child Welfare, Ms. Varsha Gaikwad, while lauding the work done by the AWs, attributed the improvement in the ratio of girls in Solapur to their hard work. MLA Ms. Praniti Shinde congratulated AWs for a significant reduction in the number of deaths among children due to malnourishment. <http://www.loksatta.com/vruthanta-news/government-to-try-for-pension-of-anganwadi-sevika-145035/>. Accessed on 25 June 2018.

⁴⁰ <http://www.thehindu.com/news/cities/mumbai/state-suspends-mesma-on-anganwadi-workers/article23326559.ece>. Accessed on 25 June 2018.

noteworthy that applying MESMA would have perhaps provided another window to elevate the status of these ‘volunteers’. After all, ‘volunteers’ can never be ‘essential’. Conversely, those whose services are ‘essential’ must at least be ‘workers’ if not gazetted officers! Indeed, such paradoxes have emerged repeatedly in this narrative which comments on the double-speak of our society in general. In that, women are worshipped as goddesses but not recognized as effective economic and political agents.

9 FUTURE OF ICDS: EXTINCTION OR CSR ROUTE?

Clearly there are too many riddles in running the system: be it the prolonged struggle by the AWs and AWHs to achieve some sanity between rights and responsibilities, rising rent that finally leads to serious compromises for safety of children or changing preferences of the parents who perceive English medium education as an essential base for upward mobility and hence shy away from vernacular *anganwadis*. There have been indications by the central government to bring about a major shift in the modus operandi of the ICDS in the recent past. For instance, the contribution of the central government in *anganwadi* scheme has been reduced from 90 per cent in the early days to 60 per cent since 2010. Consequently, there has been a steady decline in the funds allotted by the central government to ICDS, from ₹18,227.40 crore in 2014–15 to ₹16,834.55 crore in the following year.⁴¹ Government of Maharashtra has followed the same footsteps by cutting the funds allocated for ICDS by 62 per cent in 2016–17. The trend continues with a further 31 per cent cut in the proposed ICDS budget for 2017–18. The silver lining in this grim situation is a significant increase in the budget outlay for ICDS by the central government in 2018–19 to whopping ₹23,088.28 crore.⁴²

And yet concerns have been expressed over proposals to shift from: (a) providing support through services to direct cash transfers to the beneficiaries, (b) providing pre-packed food instead of freshly cooked food and finally⁴³ (c) going for a public-private partnership (PPP) model to run the *anganwadis*.

⁴¹ See Appendix Table 14.4.

⁴² See Appendix Table 14.4.

⁴³ <https://thewire.in/featured/government-planning-dismantle-icds-programme>. Accessed on 25 June 2018.

The Vedanta Group has already implemented a PPP model for the *anganwadi* programme⁴⁴ in Varanasi⁴⁵ and is providing learner-friendly infrastructure, hygienically cooked food and also training to the AWs. The group has been involved in modernizing 4000 *anganwadis*⁴⁶ across the country. Maharashtra government has also implemented a similar model through the Reliance Foundation under CSR since 2015. The minister for Women and Child Welfare has lauded the success of this experiment and has expressed the desire to replicate this model, which has been successful in eight districts of the state, in other areas.

So the unions of these workers are now faced with a variety of new challenges, while the old ones remain unresolved. As already noted, they have opposed the idea of direct cash transfer. After all, the programme is focused on human development and not employment generation like Mahatma Gandhi National Rural Employment Guarantee Act (MNREGA). Also, the idea of providing packaged food is against nutrition. It would amount to corporatization replacing the participation of self-help groups run by women besides enticing the children towards junk food.⁴⁷ Lastly, privatization may bring about unprecedented changes in the entire system, obscuring the relevance of millions of AWs whose skills and commitment are no longer indispensable.

10 SOCIAL DIALOGUE: A WAY FORWARD

One hope amidst the chequered path of struggle traced so far is the involvement of all the central trade unions in India in the *anganwadi* workers' movement. Through *Maharashtra Rajya Anganwadi Kruti Samiti* at the state level and *All India Federation of Anganwadi Workers and Helpers* at the national level, they stand together in this struggle. Of course there are differences in their views. While some unions have shown

⁴⁴ <https://www.thehindubusinessline.com/opinion/education-needs-private-sector-push/article20536664.ece1>. Accessed on 25 June 2018.

⁴⁵ https://www.business-standard.com/article/news-ani/vedanta-launches-nandghar-anganwadis-in-varanasi-116041400671_1.html. Accessed on 25 June 2018.

⁴⁶ <https://www.thehindubusinessline.com/economy/govt-vedanta-to-upgrade-4000-anganwadis/article7350824.ece>. Accessed on 25 June 2018.

⁴⁷ These views were expressed by Ms. Shubha Shamim during my interaction with her on 24 June 2018.

a greater inclination towards choosing the legal path to find solutions over a period of time, others still believe in taking the struggle to the streets. Fortunately, these differences do not seem to create a competitive environment among the unions. Instead they open up various options available in terms of strategies to pursue the common goal of conferring dignity to these women who have battled too long for decent working conditions and fair remuneration as workers. And if we believe that inclusive growth is indispensable to sustain the impressive economic growth achieved by India in the recent past,⁴⁸ it is important to initiate an effective social dialogue process that is focused on dealing with and not dodging or obscuring contentious issues. The presence of the joint fora representing workers both at state and national levels provides an appropriate foundation to conduct social dialogue. That the Indian labour conference has already addressed the problem of lack of social security to the *anganwadi* workers and has also recommended solutions is indeed a welcome sign. Being heard at a national tripartite level can certainly provide a fresh impetus, a clear agenda and a direction to steer the movement in the immediate future. But it is equally important to ensure consistency in such efforts. An ongoing social dialogue process alone can ensure that the impetus is converted into policy measures to alleviate the dire working conditions of these ‘volunteers’.

11 CONCLUSION

Anganwadi union movement provides a unique example of the ability of women to carry out an organized struggle to assert the dignity of a community health worker. Though the pecuniary benefits obtained through this battle leaves nothing much to be desired in comparison to the agony it has caused, perhaps the most impressive outcome of this movement lies in its ability to whip up and sustain political awareness among the least likely agents: the women from the socially and economically deprived classes of the society. These women have participated in street protests and have entered into the political arena as well. The assertive energy of this movement has been mobilized to support wider social causes such as

⁴⁸ “Why Inclusive Growth is Indispensable to India?” <https://www.livemint.com/Opinion/S0FE91jpvLOv4bn4aVdBNK/Why-inclusive-growth-is-indispensable-to-India.html>. Accessed on 05 August 2018.

protesting against female infanticide and dowry. Besides asking for better returns for their work, these women have successfully pressed the need to include the mother's name into any statutory document of the child, at least in the state of Maharashtra. They have rallied to demand 'equal pay for equal work' and equal share in inherited property for women. What one sees here, therefore, is some sort of a catalytic element emerging from the struggle that has engaged millions of workers across the country for over three decades. It is also a classic case of how an army of empowered persons (more importantly women in this case) can emerge out of the process of empowering others, as it were! This is hardly a 'bread-and-butter' union. Taking a look at the issues these women have rallied for, one encounters a synergy of the working class and feminist movement! Ironically, the battle these women have put up with is in a way symbolic of the treatment to women in our society: women must provide nourishment but without any conditionality. Their worth should always remain immeasurable (read as worthless) in money terms and in terms of their decision-making power. This is one movement that has dared to challenge this status quo. And it can offer practical lessons to those involved in the working class movement apart from being a source of inspiration. In that, it demonstrates that continuous communication between the layers of organization can instil 'class consciousness' among the members to adequately overcome the challenge of geographically spread-out workforce, and that women as a collective can become a force to reckon with. Also, a movement that can think beyond the immediate pecuniary benefits to its members may find itself in a better position to consolidate and sustain itself over a longer time. Indeed, it would be a pity to allow this struggle to wane in attrition.

APPENDIX

Table 14.2 Category-wise variation in minimum wages per day in various states as on 1 November 2017 (in Indian rupees)

Serial number	State/Union Territory (UT)	Categories									Monthly wage (unskilled)			
		Unskilled			Semi-skilled			Skilled				Highly skilled		
		Min	Max	Min	Max	Min	Max	Min	Max	Min		Max		
1	Andhra Pradesh	69.27	-	-	-	-	-	-	-	-	-	895.83	2078.1	
2	Assam	240.00	-	280.00	-	350.00	-	450.00	-	-	-	7200	7200	
3	Delhi	522.00	-	575.00	-	633.00	-	-	-	-	-	15,660	15,660	
4	Goa	307.00	465.00	321.00	465.00	386.00	465.00	418.00	465.00	418.00	465.00	9210	9210	
5	Haryana	318.46	-	334.39	351.11	368.66	387.10	406.45	-	406.45	-	9553.8	9553.8	
6	Kerala	287	510	289.70	498.00	278.60	533	284.60	556.00	284.60	556.00	8610	8610	
7	Maharashtra	180.00	315.49	-	-	-	-	-	-	-	-	5400	5400	
8	Tripura	179.96	359.00	197.42	389.00	220.76	419.00	325.00	630.84	325.00	630.84	5398.8	5398.8	
9	Puducherry	55.00	255.00	-	-	-	-	-	-	-	-	1650	1650	
10	Telangana	69.27	-	-	-	-	-	-	-	-	-	380.48	2078.1	

Source: *Annual Report 2017-18*, Ministry of Labour and Employment, Government of India

Table 14.3 List of organised protests by AWWs in Maharashtra

Sl. no.	Issue of protest	Dates	Nature of protests	Levels
1	Demand for hike in honorarium, timely payment of honorarium	14/2/1990 9/3/1998, 25/10/1999-28/10/1999, 8/8/2001, 10/10/2006 5/6/2013, 6/6/2013 8/1/2014, 12/1/2015, 25/4/2015, 2/12/2015, 2/1/2016 12/09/2017	March to Parliament <i>Morcha</i> and <i>Dharna</i> at Mantralaya March to Parliament <i>Morcha</i> at <i>Mantralaya</i> Indefinite strike <i>Morcha</i> at <i>Mantralaya</i>	National State National State State State
2	Demand for travelling and dearness allowance/protest against cut in travelling allowance and dearness allowance	17/10/1994, 2/10/2000, 8/8/2001, 1/12/2003, 5/1/2004, 13/1/2004, 16/3/2005-22/3/2005 19/10/1994, 8/11/2004 17/4/1995, 22/11/2004	District-level <i>Morchas</i> <i>Dharna</i> at Parliament <i>Gherao</i> at chief minister's bungalow (a vast independent house) <i>Morcha</i> at <i>Mantralaya</i> / <i>Jail Bhara</i>	State National State
3	<i>Bhaatbeej</i>	October 1990, 2/11/1997, 30/10/2008		State
4	Bonus	1/11/1993, 14/2/1994, 25/10/1999-28/10/1999, 2/10/2000, 2/10/2000, 10/10/2006, 20/11/2006	<i>Morcha</i> at <i>Mantralaya</i>	State
5	Pension and retirement benefit	18/8/1992, 5/3/2003-8/3/2003, 17/7/2003, 1/12/2003, 5/1/2004, 13/1/2004, 31/5/2004, 3/6/2004, 12/4/2006, 10/10/2006, 20/11/2006, 9/1/2007, 8/3/2007, 21/3/2007, 17/6/2008, 12/8/2008		State
6	Non-payment of arrears	22/11/2004, 16/3/2005-22/3/2005 14/2/1990, 17/4/1995 16/9/1993 17/10/1994, 2/11/1997, 2/10/2000	<i>Morcha</i> at Parliament <i>Morcha</i> at Parliament District-level <i>morchas</i> <i>Morcha</i> / <i>Dharna</i> at <i>Mantralaya</i>	National National State State

7	Protest against non-implementation of promises	18/8/1992, 22/4/1993, 14/3/1999–24/3/1999, 10/5/1999, 18/11/2001, 20/1/2003, 5/3/2003–8/3/2003, 17/6/2008, 20/8/2008, 15/10/2008, 11/2/2009, 18/11/2009, 23/11/2009–24/11/2009, 10/2/2010, 11/8/2010, 4/9/2010, 20/4/2011 9/7/2010 6/3/1999–22/3/1999	<i>Morcha at Mantralaya/Azad maidan</i>	State
8	Demand for status of government servant	18/5/1990 5/3/1992 18/8/1992, 14/2/1994, 17/10/1994, 17/4/1995, 23/10/1996, 9/1/2007, 8/3/2007, 21/3/2007, 26/2/2008–27/2/2008, 17/6/2008, 12/8/2008, 18/4/2012 27/9/1995	Nation-wide strike <i>Padayatra</i> from Jalgaon to <i>Mantralaya</i> <i>Jail Bharno, Rastra Roko Dhaarna</i> (Hunger Strike) <i>Morcha at Mantralaya</i>	National District-State National State State
9	End corruption in the system	17/6/1994, 17/4/1995 17/10/1994, 13/10/1997	<i>Morchas</i> Strike/dharna at Parliament <i>Morcha at Mantralaya</i>	District level National State
10	Protest against privatization	8/4/1994 17/6/1994 17/4/1995 17/4/1995, 23/9/1996–25/9/1996, 25/10/1999–28/10/1999, 1/12/2003, 5/1/2004, 2/1/2016 27/9/1995 20/1/2003	All unions meet, holding of convention One-day strike <i>Dhaarna</i> at Parliament <i>Morcha at Mantralaya</i>	National National State
			District-level <i>morchas</i> <i>Jail Bharno</i>	State State

(continued)

Table 14.3 (continued)

<i>Sl. no.</i>	<i>Issue of protest</i>	<i>Dates</i>	<i>Nature of protests</i>	<i>Levels</i>
11	Save ICDS	15/2/2016–16/2/2016 5/4/2016	<i>Dharna</i> at Parliament <i>Morcha</i> at <i>Mantralaya</i>	National State
12	Protest against MESMA	12/09/2017	Indefinite strike	State
13	Political rights of women (property, equal pay, reservation of seats in parliament, etc.)	12/2/1996 22/2/1996	Hunger strike at parliament Nasik to Mumbai <i>Padyatra</i> (a protest march)	National State
14	Protests on other economic issues (inflation, unemployment, implementation of social security for unorganized sector workers, minimum wage)	25/10/1999–28/10/1999, 8/3/2001 6/10/2003, 20/2/2013, 21/2/2013, 7/3/2013	<i>Morcha</i> at <i>Mantralaya</i> <i>Morcha</i> at <i>Mantralaya</i>	State State

Source: MAKS office, Thane

Note: Mantralaya—state secretariat

Table 14.4 Expenditure budget for Integrated Child Development Services (ICDS)

<i>Serial number</i>	<i>Year</i>	<i>Actual budget (rupees in crores)</i>
1	2014–15	18,227.40
2	2015–16	16,834.55
3	2016–17	16,579.60
4	2017–18	19,962.75
5	2018–19	23,088.28 (budget estimates)

Source: Union Budget Documents. See: <https://www.indiabudget.gov.in/cbmain.asp>. Accessed on 23 July 2018

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PART III

Understanding Industrial Relations
and the Dynamics of Trade Unions
and Workers' Organizations



Labour Rights in Globalizing World and India

D. Narasimha Reddy

I INTRODUCTION

Though the basic theme of the chapter is on the impact of the present phase of globalization on labour rights in India, for a better understanding of the nature of the changes, it would be appropriate to locate the same in the larger context of the evolution and transformation of the labour rights regime at the international level. For whatever that has emerged as labour rights and the labour regulatory system in law and practice in India has been substantially influenced and shaped by the developments in the global context. Often the achievements of working class elsewhere and the institutionalization of the same have served as the inspiration for mobilization in favour of labour rights in India.

The chapter is divided into four parts. The second part, following the introduction, is a brief account of the evolution and transformation of the international labour rights regime since the nineteenth century. In the light of this brief historical background, the third part analyses the

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impact of the present globalization on labour rights situation in India. The fourth and the last part reflects on the challenges in ensuring a decent and secure living especially for the growing mass of informal workers.

2 LABOUR RIGHTS PERSPECTIVE

2.1 *Labour Rights: From Mid-Nineteenth Century to World War I*

For the purpose of this brief history, the evolution of labour rights is divided into four phases. The first phase, beginning in the mid-nineteenth century till the end of World War I, was also broadly the imperialist phase of globalization (1860–1914). The second phase extends over the inter-war years between 1919 and 1939, the third phase from 1944 to 1980s and the fourth phase, beginning in the late 1980s, coincides with the present phase of globalization. There is no gainsaying that labour rights are the result of the social and political actions embodied in working class movements. While these movements started with the early phases of Industrial Revolution and the emergence of a distinct working class, workers were able to organize and mobilize effectively only since the nineteenth century when the old laws against combinations were repealed. During this period the Socialist intellectuals of varying hues provided the leadership. In England, Robert Owen inspired the formation of the Grand National Consolidated Trades Union in 1934, and Ferdinand Lassalle founded the General German Workers' Union in 1863 (Spector 2006). By mid-nineteenth century there was clear recognition of the imperialist expansion of industrialization. In 1847, the Communist League mooted the idea of organizing the workers of the world, and Marx and Engels set out the principles of organization in the form of *Communist Manifesto* (1868). The First International (International Workingmen's Association) was formed in 1864, in which Marx played a key role by insisting on a revolutionary mobilization, while there were other socialist groups mobilizing for socialist reforms and labour rights. The First International was disbanded because of internal divisions, yet it had considerable influence as a unifying force of labour in Europe (Risse 2008). The imperial-colonialist phase of globalization was punctuated by a series of economic crises during the 1860s and the 1890s. These crises of capitalism brought about further concentration and international spread of capital. Simultaneously, labour organizations grew. Labour

organized itself according to major industries in response to capital's demand for greater control over the labour process through large-scale production. This culminated in the emergence of mass political parties based on working class support: "labour and socialist parties were almost everywhere growing at a rate which, depending on one's point of view, was extremely alarming or marvelous" (Hobsbawm 1995).

Trade unions emerged in different industries with varying degrees of organizational strengths. In France the unions were still local, confined to certain industries and regions, but in Germany free trade unions were widely spread. The situation in Britain was much more developed and "between 1867 and 1875, trade unions actually acquired a legal status and privileges so far-reaching that militant employers, conservative governments and judges did not succeed in reducing or abolishing them until the 1980s. Labour organization was not merely present and accepted, but powerful, especially in the workplace" (Hobsbawm 1995). Under pressure from workers' organizations, Britain passed the Trade Union Act of 1871 and an eight-hour working day became a national law by 1880. Trade unions, unlike in the pre-1860s, were no longer the exclusive domain of craft or skilled workers, and by the late 1880s they spread rapidly among the large masses of workers in many industries, notably in mines and railways, and among dock and gas workers, where, it was once thought, organization was almost impossible (Morton and Tate 1956). The historic struggle of Chicago working class for an eight-hour working day and the declaration of May 1 as the day of demonstrations by the Second International (Socialist International) in 1889 were indications of the then emerging international solidarity of working class movements for their rights.

The Social Democratic Party of Germany emerged as the largest political party supported by workers. It launched Gotha Programme in 1875 explicitly calling for labour rights like universal suffrage, freedom of association, limits on the working day and for other laws protecting the rights and health of workers. Marx was very critical of the emphasis on rights of the programme, branding it as a reformist agenda that would subvert the revolutionary agenda.

Other parts of the working class movement did not share Marx's aversion to the language of rights, or his view that no acceptable emancipation could occur within the socio-economic confines of contemporary societies. The Gotha Program belonged to a unified German socialist party that oscillated

between revolutionary and reformist orientation. Ultimately the reformist strand won. Political emancipation as captured by rights became central, and the social democrats became Germany's biggest party. Internationally, the reformist movement advocated labour rights. (Risse 2008)

The remarkable feature about the imperialist phase of globalization (1860–1914) is that it was a period of great rise of labour power and recognition of labour rights as much as wider labour mobilization and struggle, a glaring contrast to the present phase of globalization (Reddy 2003).

2.2 *Labour Rights: 1919–39*

The peace negotiations at the end of the World War I brought the labour rights issue to the fore as there was an emphasis that universal and lasting peace was possible only if it is based on social justice that is bound with ensuring rights of workers through appropriate regulatory measures. Eventually the Treaty of Versailles (1919) codified labour rights at the international level. Articles I and II of Part XIII of the Treaty laid the emphasis that state the following: labour should not be regarded a mere commodity, and spelt out the following as the basic rights of labour: right of association; payment of adequate wage to maintain reasonable standard of living; 8 hours a day or 48 hours a week; a weekly rest of at least 24 hours; no child labour; equal pay for equal work; equitable economic treatment of all workers in a country (immigrants as well as nationals); and an inspection system to ensure the enforcement of the laws for worker protection (Risse 2008). For pursuing these objectives it was clear that an international regulatory institution was necessary and the result was the founding of the International Labour Organization (ILO) in 1919 as a permanent organization involving governments, employers and workers to coordinate progress on that front. While it is widely suggested that labour mobilization, employers' concern for competitiveness and the desire for peace by nation states were pressing concerns that helped in the materialization of the ILO and global governance for labour, there is no gainsaying that the October Revolution of 1917 played no less a part in relenting the capitalist powers to make space for labour welfare. Thus began what may be called as the institutionalization of the international regime of labour rights. In due course with the formation of the United

Nations (UN), the ILO became a part of it. With a certain time lag because of the inter-war years of turbulence, the ILO at its 26th International Labour Conference (ILC) in 1944 came out with the historic 'Philadelphia Declaration'. It is considered as the hallmark of labour rights by recognition of dignity, freedom and justice to labour and unfolded the aims and purposes of ILO and the principles which should inspire the policy of its members. Further there has been it paved the way for recognition that labour rights are part of human rights, as evidenced by Articles 23 and 24 of the UN Universal Declaration of Human Rights in 1948.

2.3 *Labour Rights: 1945–80s*

The three decades (1945–75) following the end of World War II or what is described as the end of inter-imperialist wars have come to be characterized as the 'Golden Age' of capitalism because of the unprecedented rates of growth propelled partly by reconstruction of war-ravaged economies and partly by the expanding demand for their industrial machinery and equipment from the newly independent countries. In the post-World War II period, most of the capitalist countries took the path of 'welfare state' and turned out to be more 'labour friendly' (Silver and Arrighi 2000). The presence of Communist regimes and the threat of Socialist alternative to capitalism acted as a critical counteracting force. The ILO annual conferences made efforts to translate most of the labour rights accepted in principle into Conventions (Cs) to get member countries to ratify and constitutionalize the same for implementation. Some of the basic labour rights like freedom of association and right to organise (C-87), right to collective bargaining (C-98), equal remuneration (C-100), elimination of forced labour (C-105), elimination of discrimination in employment (C-111) and elimination of child labour (C-138) were made Conventions for approval and implementation by member states during this period, thus making it the most progressive phase for international promotion of labour rights. Though the progress in the formulation of the Conventions was not marked by the approval for implementation by a number of countries, this period also saw a spurt in legislative measures for the promotion of labour regulations in many countries and thus the period came to be characterized as an 'era of statutory regulation' (Standing 2003).

2.4 *Labour Rights and Present Globalization (1990–the Present Period)*

The development and expansion of capitalism, the emergence of nation states, the process of rapid industrialization and the emergence of industrial working class and the evolution of labour rights are closely intertwined as part of the modern global history, as discussed briefly in the preceding section of this part. In the development of capitalism there have been certain epochs of rapid expansion with a surge in the international flow of capital and trade facilitated by certain factors, besides the drive for more profitable avenues on a global scale. In the past, the period between 1860 and 1914 marks one such epoch, widely recognized as the imperialist phase of globalization mostly facilitated by a steep decline in transport costs. The present phase of economic globalization, beginning with the early 1980s, is yet another epoch characterized by a rapid expansion in global trade and capital mobility along with unprecedented scale of cross-border financial flows. It is facilitated by breakthroughs in information and communication technology with a marked compression of time and space, creating a virtual space of command and control of business from one location in any other place across the globe. It is a response to the crisis of capital of the 1970s (Reddy et al. 2008) and at the behest of what is widely characterized as ‘Washington Consensus’—a set of policy measures to restructure the global economic regime with active involvement of the USA, UK and multilateral agencies like the World Bank and International Monetary Fund (IMF). While trade liberalization and the free movement of capital and finance constitute the external dimensions of the ‘Consensus’, the structural adjustment programme (SAP) with increasing privatization, reduced state intervention and growing austerity in the name of fiscal constraints, and hence consolidation, and increasing investment by market incentives based on promotion of competitiveness and efficiency mark the internal reforms. Flexible American-style labour markets are promoted in the name of increasing employment. It is based on, as Stiglitz (2002) points out, a very fragile theory that argues interventions to enhance job security or payroll taxes to improve pension benefits would lead to inefficiency and increase in unemployment. The thrust on privatization, competition and efficiency meant drastic changes in the industrial organization. Instead of moving towards more Fordist types of mass production and formal employment, there has been reversal to decentred flexible industrial organizations in the form of global production networks (GPNs)

(Reddy and Jeyaranjan 2013). The thrust in labour markets is for more flexibility which has taken several forms (Standing 1999; Deshpande et al. 2004; Munk 2002). It could be numerical flexibility, where the number of workers is adjusted to the employer's needs; externalization, by sub-contracting part of the work; internal flexibility, by adjusting hours of work; and functional flexibility, by modifying workers' jobs; wage flexibility; and spatial or geographical flexibility, which means that a geographically concentrated and socially homogeneous industrial working class of semi-skilled factory labourers is increasingly being replaced by socially diverse and geographically dispersed labour force (Carnoy 1999). A defining characteristic of labour markets in the global era is small workplaces, fewer rules in the workplace, weaker unions and wages tied to business cycles (Munk 2002).

2.5 *Early Impact of Present Globalization*

The impact of globalization on labour markets has been adverse across countries regardless of whether the country is developed or less developed. In industrial countries, globalization has been an important factor in causing job losses as corporations 'downsize' their employment in the face of cut-throat competition and, to a limited extent, due to rising imports from low-wage countries as well as a shift of production to these low-cost locations. Concomitant with this 'race to the bottom' are rising wage and income inequalities within and between countries (ILO 1996). In developing countries, globalization has let loose a process of intensification of casualization and informalization, which is causing dislocation of communities by minimizing employment opportunities in general, reducing the share of formal employment in the organized sector without much impact on the mass of 'working poor'. Vulnerable employment consisting of own account workers and unpaid family workers constitutes the largest proportion of the workforce in most of the developing countries. Privatization of the public sector, decentralized production through sub-contracting and home-based production and the transfer of jobs from the formal to the informal sector have undermined the position of labour as a factor of production and labour as a class. The formal sector exploits the competition among small and informal supplying firms with poor job security, low wage levels and hardly any safety standards by sub-contracting to these firms and thus avoiding the cost of social security and high wages. With the emergence of dual production structures, the major proportion of risks, hardships and uncertainties of small enterprises is in

turn transferred to hapless workers in sweatshops (Thomas et al. 1995). There emerged increasing feminization of flexible labour especially in countries that adopted export-oriented, low-technology, high labour-intensive industrialization by setting up export processing zones (EPZs) for textiles, garments, shoes and electronics. Organizational changes in the form of sub-contracting and home-based production have further driven women into low-end jobs. 'Home-based' workers are preferred because these workers subsidize capitalist growth by providing their own tools and equipment and place of work and often work below minimum wages (Chen et al. 1999). Most of these informal labour markets, under the pressure of so-called competitiveness, are constructed on a gendered basis because the burdens of the reproductive economy (taking care of children, parents or others for no pay) are borne largely by women (Elson 1999).

The worst affected were the African and Latin American countries, which were also the earliest to be drawn into the SAP in the 1980s. During 1980–91, under the influence of globalization, minimum wages actually declined in several Latin American countries. It fell by 40 per cent in Venezuela, by 60 per cent in Mexico and by 85 per cent in Peru. Besides inflation and weaker union bargaining power, the main reason behind the declining minimum wages was the deliberate policy to abandon minimum wage legislation for the sake of stabilization and adjustment (Tokman 1992). In Africa, real wages became downwardly flexible and unemployment in Latin America surged towards a two-digit level by 1994–95. In Africa and parts of Asia, there was persistence of underemployment and poverty in many countries (ILO 1996). The entire South Asian region except Sri Lanka witnessed declining employment growth, especially in the organized private sector, during 1990s (Islam 1996).

By the mid-1990s the emerging crisis in the form of slow growth, or no growth in employment, and growing inequalities across countries as a result of globalization and the SAP that went along with it were widely recognized. At the international level the issue of the adverse impact of globalization on conditions of work and labour rights and the need for strategies to face them assumed much wider concern not only at the ILO but also among other multilateral organizations. These included initiatives by the United Nations Development Programme (UNDP), the World Summit for Social Development and on the sidelines of World Trade Organization (WTO) negotiations on trade liberalization and labour standards. The Human Development Report (HDR) 1996 (UNDP 1996)

came out loud and clear when it summed up the nature of market-driven growth as “jobless, ruthless, voiceless, rootless and fruitless”. It brought home the fact that the SAP that was part of the unfolding globalization process was in favour of neither equity nor redistribution either between or within countries. By reviewing 15 years of experience since the globalization process began in 1980s, the HDR 1996 found that only in 15 countries growth had improved the incomes of the people, whereas in 100 countries, there was negative growth. In 70 countries, the average income in 1993 was lower than it was in 1980.

Responding to the deteriorating employment and working conditions, the Copenhagen World Summit for Social Development (1995) under its commitment 3(i) adopted by the Heads of the State and Governments stated: “We commit ourselves to promoting the goal of full employment as a basic priority of our economic and social policies, and to enabling men and women to attain secure and sustainable livelihoods through freely chosen productive employment and work”. And at the national level countries committed to “i ... pursue the goal of ensuring quality jobs, safeguard the basic rights and interests of workers and to this end freely promote respect for relevant International Labour Organisation Conventions, including those on prohibition of forced and child labour, freedom of association, the right to organize and bargain collectively and the principle of non-discrimination”. And the Programme of Action (para 54 b) adopted by the Summit also emphasized that governments should enhance the quality of work and employment by safeguarding and promoting respect for workers’ rights and fully implement the ILO Conventions on the four core labour rights mentioned earlier, regardless of whether formally ratified or not.

There were also concerns among the developing countries about the trend towards globalization accompanied by the ‘social clauses’ to establish the binding link between protection of workers and liberalization of trade (de Jonge 2004). Though invitation to the ILO for the conference was cancelled, the opposition to linking labour protection to trade at the WTO Ministerial Conference at Singapore in 1996 turned the consensus to labour issues to be left to the domain of ILO. The response of ILO to the impact of the globalization on labour rights may be categorized as two types, one in the form of ‘protection’ and the other ‘promotion’ of labour rights, each with a Programme of Action. The ‘protectionist’ strategy could be associated with the ILO 1998 Declaration, (<https://www.ilo.org/declaration/thedeclaration/textdeclaration/lang%2D%2Den/index.htm>).

Accessed on 20 October 2018), while the ‘promotional’ form is discernible in the Report of the Director General: Decent Work, at the 87th ILC (ILO 1999).

Let us begin with the ‘protectionist’ strategy which was obviously a response to the World Summit for Social Development (1995) and the WTO negotiations on trade and social clause referred to above. These developments turned the ILO in 1997 to grapple with the ‘congruence between the phenomenon of globalization of the economy and the desire for universal implementation of fundamental rights’. The 1998 Declaration is a reassertion of some of the well laid-out principles of labour protection which already formed the subject of different Conventions adopted by the ILO but with a particular focus on ‘four core principles’. The Article 4.1 of the Declaration emphasizes that the guarantee of these fundamental human rights at work “*is of particular significance in that it enables the persons concerned to claim freely and on the basis of equality of opportunity their fair share of wealth which they have helped to generate, and to achieve fully their human potential*” (ILO 1998, emphasis added). But the ILO was quite categorical that there was no legal binding and the compliance was voluntary: “the Declaration requires nothing more of ILO members than to be consistent and comply with commitment they have already undertaken, and serves to encourage them in their endeavours, it certainly does not seek to impose further commitment on them. Contrary to what may have been said, there is definitely no question of subjecting members to specific provisions of Conventions that they have not ratified” (ILO 1998).

In contrast to the powers that have brought into play the forces of free market-driven globalization, one could only wonder what progress the Declaration could achieve if one goes by the hope against hope that the following statement signals: “Failure of the project to bear fruit will inevitably be perceived as a failure of the philosophy, and methodology of voluntary action which the organization has stated to be the most effective and appropriate, *even in the current economic climate*, for achieving its objectives of progress and social justice” (emphasis added, ILO 1998). It is hardly surprising that the Declaration has become highly controversial in terms of its ability to achieve the set objectives.

Let us now turn to ‘promotional’ form of response of the ILO to the labour conditions under globalization. What is interesting is ILO’s detailed recapitulation of adverse effects on labour in the increasingly globalizing world, and the counteracting measures to mitigate the impact comes

almost two decades after the liberalization process had started. And it is in the form of its Director General's Report for 'Decent Work' at the 87th ILC in 1999, a year after the 1998 Declaration. The Report observes, in a confessional format, "In the last two decades ... the traditional cornerstones of the International Labour Organization's activities have changed, shaped by the transformation of the economic and social environment brought about by the rising global economy". And the Report goes on to add: "Policies of economic liberalization have altered the relationship between the State, labour and business. Economic outcomes are now influenced more by market forces than by mediation through social actors, legal norms or state intervention. International capital markets have moved out of alignment with national labour markets creating asymmetrical risks and benefits for capital and labour. There is a feeling that real economy and financial system have lost touch with each other ... changes in employment practices, labour markets and labour relations have had profound impact on the ILO's constituents, particularly trade unions and employers' organisations ... Globalisation has brought prosperity and inequalities, which are testing the limits of collective social responsibility" (ILO 1999). And these were noted as 'seismic changes' for ILO that called for action and the answer was the ILO's mission "to improve the situation of human beings in the world of work. Today, that mission finds resonance in the widespread preoccupation of people at times of great change: to find sustainable opportunities for decent work". Soon the World Commission on the Social Dimensions of Globalization (ILO 2004) also came out with the findings that globalization had been generating unbalanced outcomes between and within countries, that wealth was created but too many countries and people do not share it and their aspirations for decent jobs and a better future for their children were not met and that many of them lived in the limbs of an informal economy without formal rights and in a swathe of poor countries that subsisted precariously on the margins of the global economy. The Commission too reiterated the 'core labour standards' (CLS) of the 1998 Declaration and suggested that 'decent work' for all should be made a global goal and pursued through coherent policies.

The ILO's responses are often seen as 'soft' options, and particularly its 1998 Declaration has been subjected severe criticism. Philip Alston (2004) feels that the 1998 ILO Declaration which abridged the focus on international labour rights to just four so-called 'core labour standards' (CLS) placed excessive reliance on 'principles' than 'rights', created an ethos of

voluntarism in relation to implementation and enforcement and ended up with ‘soft promotionalism’ as the bottom line. He argued that focus on well-defined rights was replaced by focus on generalized principles, which according to him is likely to lead to the gradual downgrading of the role of the ILO’s international ‘enforcement’ mechanisms and cautions that there is a risk that if the Declaration is taken to the logical end, it could undermine the implementation of labour standards as they evolved for the protection of workers since 1920s. Judy Fudge (2010) finds that while ‘CLS’ are important, protection to labour under globalization needs much more attention, especially in terms of economic and social rights, and thus there is a need for ‘core plus’ or ‘expanded core’. Similarly, Opromolla (2007) points out that long before adoption of the International Convention of Economic, Social and Cultural Rights (ICESCR) in 1966 by the United Nations, rights of labour were embedded in several binding provisions of the Conventions of the ILO, committing the states to give effect to economic, social and cultural rights as well. He concludes: “A true rights-based approach should be preferred to a ‘softer’ approach based on ‘standards’, ‘principles’, ‘guidelines’ etc. in order to avoid that labour rights become only one of the elements to take into account in orienting the liberalized global economy. Labour rights, on the contrary, should be seen as instruments to advance social justice and be used, together with the whole range of all human rights, to shape economic globalization” (Opromolla 2007).

Notwithstanding the criticism, there are certain sympathetic voices which considering the present resource stress of ILO feel that in the context of ILO’s goals of human rights and development and their emphasis on constitutional and tripartite methodology for advancing these goals, the Declaration is “not some Trojan Horse introduced to undermine the ILO, but rather a model aiming to rescue the ILO from its marginalized status” (Langille 2005). The challenge is how the ILO would balance the pursuit of the ‘CLS’ along with ensuring certain basic social and economic standards including universal implementation of ‘Decent Work’ and ‘Social Protection Floor’. A comprehensive assessment of trends in these aspects is yet to be made, but the limited evidence available shows disturbing trends. An international assessment based on a set of new labour rights indicators focused on ‘Freedom of Association and Collective Bargaining’ between 2000 and 2015 shows overall sustained worsening in terms of violations of these laws with certain regional differences (Kucera and Sari 2018). The International Trade Union Confederation’s (ITUC) Global

Rights Index based on 97 indicators applied to 142 countries shows shrinking of democratic space and corporate capture of industrial relations system, with 65 per cent of countries excluding certain groups of workers from the coverage under labour laws and 87 per cent of countries violating the right to strike (ITUC 2018). With this background on the evolution of labour rights and the contemporary transformation of international labour rights regime, we shall try to examine labour rights in the globalizing India.

3 LABOUR RIGHTS IN GLOBALIZING INDIA

3.1 *Introduction*

This part is divided into three sections. This section provides a brief outline on constitutional and legal provisions and the nature and extent of coverage of workers under them. The second section deals with a brief account of the process of integration of the Indian economy both in terms of external and in terms of internal structural transformation since early 1990s in the process of becoming a part of the global neoliberal regime. The third section summarizes the adverse outcomes of globalization in the labour market. And the fourth and the last section is on the larger institutional impact and the status of labour.

The emergence of the labour regulatory system with a set of clear laws, rules and well-recognized institutional mechanisms could be seen in terms of two broad phases, one dating back to the British rule in India and the other beginning with the post-Independence period. There has been a number of accounts detailing this development (e.g. see Papola and Pais 2007; Mishra 2012). One of the earliest legislative measures relating to labour was the Factories Act of 1880, laying down the minimum conditions of work in terms of hygiene, safety and hours of work. Though industrialization during this period was nascent, the colonial British government on the basis of developments in the European context took this initiative to ensure industrial peace through proper institutional arrangements. In recognition of this objective India was made a founder-member of the ILO in 1919. And this was followed by the Workmen's Compensation Act 1923 to ensure compensation for injury and the Trade Unions Act 1926, in recognition of the principle of freedom of association of the ILO. Other important federal labour laws during the colonial period were

the Trade Disputes Act 1929 (to settle industrial disputes) and Payment of Wages Act 1936 (regulating the payment of wages).

The labour legislation during the post-independence period could be compared to the spirit of the 'era of regulation' under the Welfare State regime in Europe. Besides the Constitution of ILO, the Declaration of Philadelphia did have an influence in making labour rights as a part of the Constitution of India, with Article 16 on equality of opportunity in matters of public employment, Article 19 on the right to form associations and unions, Article 23 prohibiting forced labour, Article 24 prohibiting child labour and Article 39(b) ensuring equal pay for equal work. Several critical legislative measures aiming at security of employment, payment of fair wages, ensuring safe conditions of work and social security were enacted soon after independence. Particular mention may be made of the Industrial Disputes Act (IDA) 1947, protecting workmen against layoffs, retrenchment and closures; the Factories Act 1948, regulating the conditions of work in the manufacturing establishments; Industrial Employment (Standing Orders) Act 1946, regulating conditions of recruitment; and Employees' State Insurance Act 1948, providing compulsory health insurance to workers. Several other legislative measures were made by both the union and state governments for protecting rights of workers and for ensuring industrial peace. The broad approach to labour legislation was based on the understanding that "human treatment, well-being and security make workforce more efficient and productive and it is, therefore, in the interest of the industry to provide good working conditions" (Papola and Pais 2007). Apparently there are too many labour laws but most of them are relating to employment in the organized sector which accounts for a meagre 8 per cent of all workforce or about 17 per cent of wage employment. It is not too many laws but too little coverage that was the concern before the launch of economic reforms. In the case of the overwhelming majority who are in informal employment the degree of flexibility is so high that they are in no way protected from the vagaries of market or arbitrary actions of their employers (Papola et al. 2008). "But the regulatory framework has been accepted as a part of the social contract between industry and labour, with the state acting as the watchdog and referee. This social contract seems to have come under serious stress over the past two decades, particularly with introduction of economic reforms and India's initiative to globalise in the early 1990s" (IHD 2014, p. 41).

3.2 *Globalization and Structural Adjustment of the Indian Economy*

External integration and internal structural adjustment are two sides of the process of globalization. External integration is in terms of trade liberalization by removing quantitative restrictions, by reducing tariffs and free flow of capital in the form of both direct and portfolio investment. Internal structural adjustment is a process of increasing the privatization of economic activities and services, deregulation of industry, strengthening market forces by liberalizing prices, interest rates and removing subsidies and maintaining fiscal discipline by austerity and by minimizing the role of state in the economy. The package of these reforms unfolded in the 1980s at the behest of multilateral financial agencies in the name of bailing out the highly debt-ridden Latin America and soon became the 'new normal neoliberal regime' across the world. For India, the 1980s turned out to be a turning point towards higher growth and stable economy, but it did not last long. By 1991 the Indian economy ran into a crisis of high fiscal deficit, very low foreign exchange reserves and high rate of inflation. When India turned to the World Bank and IMF for credit, it came with a package of conditions for liberalization and structural reforms. The reforms included (a) devaluation in the name of correcting the overvalued rupee exchange rate; (b) reduction of subsidies to restrict fiscal deficit; (c) liberalization of trade by eliminating non-tariff barriers and reduction of average tariff to less than 20 per cent; (d) decontrol and delicensing of industry and privatization and disinvestment of public sector in the name of efficiency and competition; and (e) stabilization of prices through reduced fiscal deficit. The Indian economy has passed through a series of policy shifts, making liberalization and privatization all pervasive and turning increasingly towards trade, capital and financial integration with the global economy.

Since 1991, the process of global integration of the Indian economy has advanced considerably in terms of reduced tariffs, increased share of foreign trade as a proportion of gross domestic product (GDP), the inflow foreign capital, its share in the gross capital formation as well as in the stock of capital in the country. Almost all quantitative barriers to trade have been abolished. The average peak tariff rates declined from 40 per cent in 1999–2000 to 20 per cent in 2004–05 and to less than 10 per cent in 2007–08. India's trade openness, measured in terms of the combined value of exports and imports as a share of GDP, increased from 17 per cent

in 1991 and peaked to 58 per cent by 2014. Foreign direct investment (FDI), which was negligible both in quantity and as a share of gross capital formation (GCF) even in 1991, increased to about \$17.8 billion by 2007 accounting for 5.6 per cent of GCF in India, and it peaked further to \$44.5 billion or about 7.2 per cent of GCF in 2016. The FDI stock in India which formed about \$5.6 billion or about 1.5 per cent of GDP increased to \$377.7 billion or as a share of GDP by almost ten times to the level of 15.4 per cent (UNCTAD 2018). While the growth of trade increased faster than the growth of GDP, the growth of FDI and financialization through the opening up of financial markets far exceeded the growth of trade. Apart from liberalized trade and capital flows, financialization too has adverse effects on labour and employment. “Whereas in the past, new job opportunities and increased productive activity would have been an indication of economic well-being, in the era of financialisation, share prices often rise following the announcement of job cuts... Furthermore, many businesses transfer the burden of capital market demands to their workers, slashing wages and adding, in different ways, to the growing precariousness of employment” (Dutta 2018).

“Financial globalization affects employment and incomes of workers in developing countries more than trade liberalization does” (Freeman 2004, quoted in van der Hoven 2010). van der Hoven (2010) argues that financial globalization leads to ‘precarization’ of many workers and their families in developing countries due to the following six trends sparked by it: decline in employment population ratio; change in the pattern of production towards services; ‘precarization’ (casualization) with increasing non-standard forms of employment; declining wage share and growing wage inequality; internationalization of production process (GPNs); and international migration. Export-oriented industries across the globe, including India, faced loss of employment due to financial crises.

The internal structural adjustment since the early 1990s drastically changed the investment structure. Public investment and employment in the public sector decreased. As a part of the process of decontrol and deregulation of industrial investment, there has been drastic restructuring of industrial organizations. One of the major changes in the forms of industrial organizations is the off shore of globalization which takes forms such as GPNs or ‘global value chains’ (GVCs). Under GPNs global production is increasingly organized in highly fragmented and geographically dispersed production networks with production processes broken up into different parts and located in different countries. There has been a rapid

expansion of GVCs under the aegis of transnational corporations (TNCs) during the era of globalization. There were 82,000 TNCs with 8,10,000 affiliates with a major role in GPNs and world trade. More than 80 per cent of world trade is organized through GVCs (UNCTAD 2018) and more than 400 million jobs in the Organisation for Economic Co-operation and Development (OECD) and Asian economies are related to GVCs (Nathan 2013, 2018). The spread of GVCs peaked by 2011–12 and accounted for 31 per cent of the share in the value of global exports (UNCTAD 2018). The TNCs are under pressure to reduce costs and increase productivity in GVCs which in turn puts pressure on wages and working conditions especially in labour-intensive industries like textiles and garments. The GVC-related employment is insecure and suffers from poor working conditions. Some of the GVC activities are footloose and relocation causes loss of employment, and export-oriented employment in general is more subject to fluctuations of global demand and supply with much harm to sub-contractors and their workforce (UNCTAD 2018).

3.3 *Globalization and Labour Market Outcomes*

There are no precise estimates of the number of units and extent of employment of GVCs in India but in the era of globalization these are widely prevalent in textiles, garments, embroidery and embellishments, auto components, electronics and BPOs. A review of a number of studies (Nathan and Posthuma 2009) shows that women are employed in more numbers in most of these industries but with low wages as home-based workers. One study of GVCs in textile embellishments and embroidery shows gender division of labour in job activities, mode of payment and upward mobility. In this segment men are employed in formal work, while 90 per cent women are in home-based work to save costs not only by way of low wages but also by avoiding costs of hiring workspaces and costs of providing for child care. Yet another study on embroidery and embellishment of garments finds the presence of child labour and payment of less than minimum wages with harsh working conditions. Another study shows increase in employment in textile and apparel GVCs but not improvement in the quality of employment. A study on garment units in two major cities shows the pressures on cost-saving measures and it indicates a clear ‘race to the bottom’ for labour (Mezzadri 2012). The author finds that to address these problems through ‘labour standards’ is futile because there is a mismatch between ‘codes of conduct’ and ‘codes of

practice' as most of these units are informal sub-contractors, and in the organized sector it is increasingly temporary feminized low-paid work. Even in developing countries like India which have derived growth benefits of globalization, the employment effects especially in terms of quality have tended to be negative. The lead company or 'brand' owner keeps out-of-production relations and acts only as a 'buyer' of components or parts which are put together as a product elsewhere and thus escapes direct relationship with labour and from accountability (Nathan 2018). The splintered production and the pressure on sub-contractors to reduce prices drive wages down to the minimum (Nathan and Sarkar 2011). Trade and liberalization orientation allocated investment from the public sector to the private and within the private sector from formal to non-formal parts of the economy. This has resulted systematically in adverse effects on employment in the informal sector (Ghose 2008; Mishra 2001). Global production chains also transmit trade shocks as witnessed in the form of adverse employment effects in export-oriented sectors (ILO and WTO 2009), which was experienced as a result of the recent global crisis particularly in textiles, garments, gems and jewellery in India.

3.3.1 *Informalization of Employment*¹

The labour market structure in India is 'dualistic' in nature with a large near-subsistence economy coexisting with a relatively high growth and higher productivity-based modern economy. The former is called the 'unorganized' or the 'informal' sector, while the latter, employing more than ten workers, is referred to as the 'formal' or the 'organized' sector. The informal sector includes agricultural and non-agricultural employment which is largely in the form of self-employment and low-paid casual wage labour, with an insignificant number of regular employment. Within the organized sector, besides 'formal regular' employment with social security, there are 'informal regular' and casual workers without any social protection. Of the total employment (396.9 million), even in 1999–2000, the unorganized sector accounted for 90 per cent (358 million) and the organized sector for only 10 per cent (38.9 million). On the eve of globalization in the early 1990s, the employment structure was predominantly 'informal' in nature: 98 per cent of employment in the unorganized sector and 41 per cent of those in the organized sector, about 93 per cent of the overall employment was informal in nature. It may appear paradoxical that

¹The data presented here are from IHD (2014) and Ghose (2016).

it was in this context that globalization process began with a thrust on more flexibility in employment. Even after a decade of introducing the neoliberal reform policies the overall structure remained the same as 92 per cent of the employment was still informal in 2011–12, but there did occur a drastic change towards ‘informalization’ of employment in the organized sector (Srivastava and Naik 2017). One of the widely discussed outcomes of the globalization and the neoliberal economic reforms was a kind of ‘jobless’ growth. Though growth of GDP between 1993–94 and 2011–12 averaged about 6.5 per cent, the rate of growth of employment declined over the years from about 2 per cent during 1983–94 to 0.45 per cent from 2004–05 to 2011–12. During the 2000s, employment in the organized sector increased at a rate of 6 per cent in contrast to 0.8 per cent in the unorganized sector. But the rise in the employment of organized sector was increasingly in the form of ‘informalization’. The share of informal employment in the organized sector increased from 41 per cent in 1999–2000 to 48 per cent in 2004–05 to as much as 58 per cent by 2011–12. The share of contract labour in the organized manufacturing sector increased from 19.6 per cent in 1999–2000 to 26.5 per cent in 2004–05 and to a little over one-third by 2011–12 (Shyam Sundar 2012b). But micro-level studies show a very high proportion of contractualization of employment. Contract workers in organized manufacturing accounted for as high as 55 per cent and 44 per cent in Andhra Pradesh and Haryana, respectively (Shyam Sundar 2011, 2012b). Public sector accounted for much of the formal regular employment in the organized sector. However, the share of public sector declined from 63 per cent to 49 per cent in organized employment and there was an absolute decline from 193 million to 175 million during that period. Globalization thus has resulted in overall deterioration of the *quality* of employment in India (IHD 2014; Ghose 2016).

3.3.2 *Impact on Wage Trends*

It is somewhat complicated to assess the impact of globalization on wage behaviour in the context of India because wage employment as such constitutes only less than half of the total workforce and of those wage employed almost two-thirds are in the informal sector with multiple sources of employment and income. Thus, the analysis of wage impact could at best refer to wages in the organized sector and that too not as direct impact but largely mediated through changes in the labour market and related institutions like trade unions and collective bargaining. For

instance, a study of employment protection and deregulation in 26 developed countries for 1970–2015 “found statistically and economically negative effect of worker job protection on labour shares” and concluded that “changes in institutions that weakened worker bargaining power have also played a role” (Ciminelli et al. 2018). An extensive review of a large number of studies on different dimensions of wage trends in India shows adverse outcomes with respect to wage discrimination, wage differentials, wage-productivity relationship, wage share in the value added and wage inequality (Papola and Kannan 2017). Of particular relevance here are trends in wage share and wage differences in the organized sector during the globalization period. They observe that “in the period since the mid-1980s, the growth in real wages in India’s organized manufacturing has been lagging behind the growth in labour productivity ... [and] a detailed econometric analysis of determinants of wage rate presented in their study clearly indicate that labour market conditions matter a lot in wage setting. The stronger the trade unions, the higher the wages earned by industrial workers. Greater labour market flexibility tends to push wages down” (Papola and Kannan 2017). The disconnect between productivity and wage growth in the wake of globalization is widely noticed elsewhere as well (Berg 2015; Ciminelli et al. 2018). Referring to studies on the impact of trade on wage inequality they observe that there has been a significant increase in wage inequality between skilled and unskilled workers in India’s manufacturing during the post-reform period. “These intra-industry effects seem to be attributable to trade-induced skill-based technological change and the growing use of contract workers in manufacturing, among other causes” (Papola and Kannan 2017). On the question of declining share of wages in organized manufacturing, there is wider evidence. For 16 advanced countries, the wage share declined from 75 per cent in mid-1970s to 65 per cent in 2007 (ILO 2013). In India, in 1981–82 the wage share was close to 42 per cent, it declined to 28.7 per cent in 1993–94 and further to a low level of 21 per cent by 2004–05 (Kannan and Raveendran 2009). The study also found that despite no cheapening of the cost of capital, there has been an increase in capital intensity overall. The declining wage share thus is also because of the disproportionately low increase in employment relative to growth of output and productivity. Thus, globalization appear to go against the claims of the free trade arguments but results in subdued or low wage levels with hardly any increase in employment (Stiglitz 2002).

3.4 *Globalization and Labour Rights Regulatory Regime in India*

Before turning to the impact of globalization and the pressures towards labour reforms, it may be useful to have a quick appraisal of the nature and scope of labour laws that provide a framework for labour regulations in India. The labour regulatory system in India as it evolved consists of labour legislations of both the central and state governments and the administrative machinery that is shaped by these laws. According to available estimates, by the time India opened up to globalization in the early 1990s, there were as many as 50 central and 150 state labour laws meant to regulate various aspects of the labour market and employment relations ranging from working conditions, wages, industrial relations, social security to labour welfare (IHD 2014; Papola and Pais 2007; Papola et al. 2008). However, the scope of these laws is confined to specific categories of hired workers and the size of the enterprise, resulting in the legislative structure itself creating organized (formal) and unorganized (informal) divide within the hired workers. As a consequence, the scope of these laws has become very narrow and the actual coverage much more limited. First, since these laws apply to hired workers, more than 50 per cent of India's workforce which is self-employed is excluded. Second, among hired workers, workers in the informal sector constitute about 85 per cent who are excluded from the scope of most of these laws except the one on minimum wages and payment of wages. Thus the laws are mostly applicable to organized sector workers who constitute only about 7.5 per cent of all workers (IHD 2014). The estimates of actual coverage under these laws range from less than 1 per cent of all workers, in the case of Workmen's Compensation Act, to 6.6 per cent in the case of Employee's Provident Fund Act (Papola and Pais 2007; Papola et al. 2008). Apparently there are too many labour laws giving a misleading impression that there is over-regulation in the domain of labour in India, while the reality is that there is too little legislative protection to labour, especially for the overwhelming majority who are informal workers.

The regulatory framework forms part of the Constitutional mandate and has been accepted as a part of the social contract between the industry and labour, with the state acting as the watchdog and referee. This social contract has come under serious stress ever since India's initiative to globalize in the early 1990s and take to the path of neoliberal reforms (IHD 2014). The quintessential neoliberal labour reform begins with the

characterization of labour market regulations and labour market institutions as causing rigidities and distortions, creating ‘sclerotic economies’ that add to high labour costs, restricted flexibility and inefficiency affecting competitiveness (Shyam Sundar 2005; Bhattacharya 2008). It has been argued that several regulatory provisions that sought to protect labour rights are highly restrictive, that the resulting high costs restrict incentives for industrial investment and growth of employment and hence the need for reforms towards flexible labour markets. There ensued a wider debate on the question of labour regulation as a disincentive towards industrial investment and employment, with some supporting the argument while many contesting it as not being borne by the experience of developments in Indian industrial relations. Though the debate raised several issues, the focus has been only on a few regulatory provisions like that of job security under the Part B the Industrial Disputes Act (IDA) and restrictions on the use of short-term indirect labour under the Contract Labour (Regulation and Abolition) Act of 1970. A detailed and balanced review of the debate (Papola and Pais 2007; Papola et al. 2008) came out with a set of findings which are summed up below.

(a) There has been increasing flexibility since mid-1980s despite no significant change in labour legislation, and employers always responded to restrictive retrenchment laws in many innovative ways such as greater use of contract, temporary and casual labour, voluntary retrenchment schemes and even increasing resort to corruption and bribery. (b) In the post-liberalization period, though no significant changes in labour laws have been made, there has been a general weakening of the bargaining power of workers through relaxed enforcement mechanisms, general weakening of the trade unions and judicial interventions that have become distinctly pro-employer. (c) Governments, both at the centre and the states, are no longer concerned about the ‘pro-labour’ image that politically mattered once but turned more ‘enterprise friendly’ in the implementation practice of labour regulations. Labour inspections were curtailed and relaxations were allowed in contract labour and hours of work. (d) At the state level, governments competed to lure investments by restoring to relax labour regulations, making amendments to central laws or using executive orders to dilute legal provisions. Some governments declare certain activities as ‘public utilities’ and invoke Essential Services Act to ban strikes (Papola 2012; Shyam Sundar 2012a), and some dilute the definition of ‘core’ in laws to facilitate more contract labour (Reddy 2008). (e) There has been an atmosphere of taming the labour as could be evidenced by the overall

decline in workdays lost due to strikes but an increase due to employer-led lockouts. There has been mellowing of trade unions' resistance to labour flexibility in the face of global competition (Shyam Sundar 2014).

Evidence available from other countries also suggests that labour regulation is insignificant either in disincentivising the flow of investments or in restricting the growth of employment. In an extensive review of literature on the link between labour regulations and employment, the World Development Report 2013 concluded that "most estimates of the impact (of labour regulation) on employment levels to be insignificant or modest" (World Bank 2013, p. 261). Findings of a cross-country regression analysis show that there was little evidence that labour protection measures like unemployment benefit entitlements, employment protection laws and trade unions were at the root of unemployment (Howell et al. 2007). The process of globalization with a shift to the neoliberal reforms regime has had a pervasive impact on labour as a social force (Reddy 2005). Even conceding that there could be some bias if the assessment is from the one that represents the affected parties (labour), there is reason to believe the findings of the International Trade Union Confederation's (ITUC) 97-indicator-based Global Rights Index, which concludes that there has been a shrinking of the democratic space, corporate capture of industrial relations and unchecked corporate influence. This is widely corroborated by independent studies that show that the brunt was borne especially by unions in the private sector, not only in the form of declining unionization but also in the form of the erosion of other labour market institutions, with the industrial relations framework increasingly tending towards unitarism, with declining space for collective bargaining (Munk 2010; Jaumotte and Osorio Buitorn 2015).

In India, because of the overwhelming employment being informal in nature either as self-employment or as employment in unorganized activities, leaving a relatively small-base of organised sector workers, unionization accounted for about 2 per cent of all workers or to about 35 per cent of organized sector workers but yet wielded considerable political and public influence. But with the shift in the economic regime towards neoliberalism and with the growing dependence on private investment for growth, governments tended to be seen as more 'capital friendly' than 'pro-labour'. The erosion of union power went hand in hand with the decline of unionization. There are a number of studies explaining the decline of unionization during the post-reform period which are summarized in the IHD 2014: "Several labour market factors such as decline in employment in the organized sector, increasing employment of

flexible categories of workers (like contract and casual workers), increase in employment in non-unionisable sectors (like information technology), and decline of union-conducive industries (like textiles), political factors (such as withdrawal of state support to unions) and managerial strategies (such as retrenchments, closures, prolonged lockouts, union avoidance, reduction in bargainable categories of workers, partial productions, relocation, parallel production and so on especially in large firms and organizational factors like ‘saturation’ of unionization in organized sector) could explain the decline in unionism in the organized sector in India” (IHD 2014, pp. 121–122). During this period there were also increasing instances of state repression against union action in India (ITUC 2018). The decline in union power was not as much because of the decline of union density, which in any case was never high, but because of loss of political clout these organizations enjoyed, which tended to decline with the policies favouring privatization (Sengupta 2003).

More disquieting is the quantum change in the judiciary’s attitude towards labour rights.² The judiciary, which in the past jealously protected the rights of labour, even to the extent of pronouncing, for example, “an enterprise has no rights to exist if it cannot pay minimum wages” in the case of Buckingham and Carnatic (Binny) Mills in 1951, has become not only lukewarm but even apathetic to the cause and rights of labour, yielding to the powerful winds of change under the spell of neoliberal economic regime, as could be evidenced by some of the pronouncements of the Supreme Court in the post-reform period (Papola 2012). In 2003, in the case of Tamil Nadu government employees, the Court quoting with approval an earlier judgement of the Constitution Bench (2003) that “for just or unjust cause, strike cannot be justified in the *present day situation*” (emphasis added), and went on to pronounce: “There is no fundamental, legal or statutory right to resort to or to go on strike”. In the case of Karnataka government’s appeal against the order setting aside dismissal of a lecturer, the Supreme Court (SC) held (2005) that indiscipline had to be curbed with an iron hand and “*in view of the change in economic policy*, it may not now be proper to allow employers to break discipline with impunity” (emphasis added). In the case of regularizing Karnataka government’s daily wage employees working for ten years or more, the SC held the following (2006): “There is no right to regular employment for those who

²This part draws mostly from Papola (2012) who has been working on the issue for a long time (Papola 2005) and quotations are from his works.

have been given employment on a daily basis”. In this case, the SC appeared as if it is executing the neoliberal economic policy when it observed: “Government closing down departments due to financial constraints and streamlining administration, not obliged to reemploy those losing their jobs”. The full-spectrum shift of the SC (2000) towards more flexible labour markets to increase the competitiveness of industry is evident from dismissing a petition of Transport and Port Workers Union against the differential duty hours for similar workers—6.5 hours for those appointed before reforms and 7.5 hours for those appointed after pronouncing the following: “In the modern world, businesses have to face competition with other businesses. To do so, they may have to have longer working hours and introduce efficiency while avoiding labour disputes. Looked at the point of view, the classification in question is clearly reasonable”. With one stroke, the long-recognized labour right of non-discrimination was struck down blatantly, parroting the neoliberal principles of ‘competition’ and ‘efficiency’ to the detriment of fairness and justice!

4 BY WAY OF CONCLUSION

Globalization and the neoliberal forces propelling it have driven a deep wedge in the social contract between the governments, labour and capital that were the foundations of peaceful (industrial) progress. The spirit of the social contract is clear in the Philadelphia Declaration: labour is not a commodity; labour should enjoy dignity, freedom and justice; and there must be promotion of labour institutions such as unions, collective bargaining and labour regulations. But this contract has been ruptured beyond retrieval both at the international and at the national level, raising doubts on whether neoliberalism and labour rights are compatible at all (Chandra 2009; Mishra 2001). Particularly, with the fall of Communism and the disintegration of the Union of Soviet Socialist Republics (USSR), capital has been on an overdrive towards free market-driven regimes, while labour has been subdued in their resistance to a compromise on deteriorating labour rights. At the international level there has been a call for a new social contract (ILO 2004) but there is no sign of any such transpiration. But what materialized as the 1998 Declaration is widely seen as a transformation in the international labour regime towards voluntarism with limited capacity towards pursuing renewal towards new social contracts that could restore labour rights. At the national level in India the disruption in the balance between the parties and the sliding status of

labour could best be summed up in the words of IHD 2014. During the post-liberalization period the only gain was in the form of some increase in employment but at the cost of deterioration of the quality of jobs that lacked stability and security. “The major losses have been in the intangible aspects—rights, public perceptions and political power, labour has lost the pride of place it occupied in social and political space in the country earlier. The ascendancy of capital had already relegated labour to a defensive position. Change in public perception of labour and their organisations, and influence of neo-liberal economic thinking on public policy and action has resulted in an erosion of the socio-political status of labour as a class. These changes are likely to have an adverse impact on the rights of labour” (IHD 2014, p. 45). Could “Decent Work” agenda and the universal “Social Protection Floor” initiatives seed a movement towards a new social contract that embed renewed labour rights?

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Is There a Fix for Industrial Relations?

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I INTRODUCTION

Professor Galbraith, the well-known American economist and one-time ambassador to India, had prophesied in the mid-1950s that trade unions would be relegated before long to the shadows. Right here, in our country, advancing liberalization and zooming GDP (gross domestic product) had led many to believe that unions had finally run out of steam. There was reason for this optimism. Left trade unionism appeared to have run its course in Bengal, and Datta Samant who terrorized Bombay had met his Waterloo in the textile industry. Samant could get a quarter-million mill workers to sit out for a year, but nothing came of this epic struggle. Workers lost their jobs, Samant lost his charisma and the textile industry itself was decimated. Towards the end of the twentieth century it all looked pretty rosy for those who thought the ghost of trade unionism had been laid to rest. Worker militancy had been replaced by employer aggression. Lockouts accounted for more than 90 per cent of the days lost to industrial action, and strikes had all but vanished. Employers who had been battered by strikes and *gheraos* hit back with offensive lockouts

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that shut out thousands of workers. To get back to work, they had to individually accept stringent production and disciplinary norms laid down by the employer.

2 MILITANT TRADE UNIONISM IS BACK

For good or ill, this has turned out to be a temporary reprieve. Without a shadow of doubt, militant trade unionism is right back in our midst. Two murders of human resource (HR) managers by irate trade unionists—one in Pricol in Coimbatore and the other at Maruti Suzuki in Manesar—have put the spotlight on the return of the ghost that was thought to have been slayed. There has been much media coverage of these events, of the latter especially, but it has been quite shallow. The focus has been on the violence, on whether wilful murder can be justified in the name of trade unionism. It cannot be, but that should not stop us from digging deeper. We need to dig deeper because trade union violence has happened before and will happen again if we do not get to the root of it.

The truly troubling part is that workers went berserk at these two locations for reasons that were entirely familiar. They were incensed that the employer would not accept a union of their choice. Foisting a favoured union is a time-worn management strategy that has always been met with resistance. What is troubling is that it continues to find favour even though it is known to whip up extreme passions. When workers are denied the unfettered right to organize that is guaranteed by the law, we must expect trouble.

In a sense, then, nothing much has changed. For most employers, trade unions are an avoidable nuisance, an undying opposition whose only mission seems to be to put spokes in the wheel. Given the choice, they would rather stay non-union or install a stooge. The desire to manipulate the labour front with some social engineering is undeniable, although this can't be said of everyone. Social engineering has in fact become more pronounced in the past two decades. Employers, especially large ones who bring in big money, are now able to ask the government to keep the wolf at bay. There are plenty of big names from Japan, Korea and elsewhere that want no union at all, and governments are willing to play along. Resisting union formation requires, at the minimum, the help of the police and the labour department. To be fair, many of these big investors are not crude exploiters. They are willing to provide top-of-the-shelf wages and

benefits but will not brook any mobilization. Almost every government is willing to infringe on workers' freedom of association if that would help bring in big-ticket investment.

3 UNIONS, MANAGEMENT AND GOVERNMENT ARE BEREFT OF FRESH THINKING AND INITIATIVES

The country is desperately short of imagination when it comes to the business of managing working people. There is no fresh thinking, no new ideas and certainly no paradigm shift. Management is unable to go beyond putting a sticking plaster on a suppurating wound. The IR function itself is short of talent because graduates from business schools want none of this rough and tumble. The academic world has nothing to offer either. Indeed, industrial relations (IR) research has now become mission impossible. No management would permit a researcher within miles. Unions were more welcoming in earlier times, but they too have drawn the shutter. Just as potential IR managers have turned to the more comfortable business of managing managers, IR researchers have sought refuge in the less turbulent world of organizational behaviour (OB). Human resource development (HRD) became the catchphrase in management schools. The gurus who marketed this new chant got around the complex world of industrial relations by interpreting human resource to mean everyone above the blue collar. What they did not understand and could not resolve ceased to be a problem.

So much for the IR function in industry and IR research in academia. What of the government? When the HR manager of Pricol was murdered, the labour minister told the media that he was waiting for the report of the state government. When the HR manager of Maruti was murdered, he was once again waiting for a report. That is all we have heard from the Labour Ministry so far. The government is clueless. It doesn't have the courage to touch chapter V-B of the Industrial Disputes Act, 1947, that forbids employers from laying off redundant workers or closing down unprofitable business, but it is willing to help influential employers cock a snook at labour laws by assisting them on the sly. What employers want is a change in regulatory systems, but they are not getting it.

Nor have the unions done much to endear themselves. All they seem to want is that nothing should change. Bank unions don't want licences for new banks issued, insurance unions don't want the sector opened up for

foreign investment, airport unions don't want private capital to come in and public sector unions don't want any divestment of capital. They certainly don't want any dilution of the law that confers permanence on workers and immortality on enterprises, even though it has done more harm than good to the working class.

4 THE CHURN IN UNIONS WILL CALL THE SHOTS

In the midst of this unchanging scenario, there is a churn in unions that has gone unrecognized. Power in unions is shifting from the leaders to the rank and file of workers. This is especially true of newer industries near big cities employing younger workers. They might bring in an outside leader, but he is only a front. It is an unmistakable syndrome. Workers will form an independent union, usually just one union that mobilizes everyone, and look for a well-connected outsider with bargaining skills, political clout, legal knowledge and hopefully also personal integrity. They want the leader's services and are willing to pay for it: almost every leader collects a fee, and some collect from both sides. Their relationship is with the leader, not his party or union federation, and any kind of affiliation is ruled out. The leader is not part of the core political process of the union but an adjunct. What he provides is not leadership but a specialized service. Sometimes what they want of him is not even a service but an emergency back-up. It is a contractual arrangement that can be terminated if workers are not satisfied, and it often is.

It is a fatal flaw to think the leader's writ runs in the union. It is the union committee made up of workers that decides which way to go. In some cases even this committee is on probation. I know of unions where representative democracy is barely visible, with no one knowing where power lies or even whether it lies anywhere at all. There was a time when employers expected the union leader to help implement settlements, especially revised work norms that met with resistance. This is now *passé*. Few leaders will accept this responsibility, and fewer still can actually deliver.

5 WORKERS WANT SHARP WAGE INCREASES AND CAREER GROWTH

I have been running into this syndrome over and over again in recent assignments. I have met these workers to find out what is troubling them. They are usually young men with nothing more than a school completion

certificate or diploma and from a social background of relative deprivation. They are hard working, eager to learn and quick to meet production expectations but are hugely aspirational. Their wage expectations are high, often out of proportion to their education, skill or experience. The industry-cum-region formula that HR managers play with to moderate wage claims does not work with them. They are unimpressed because they are led by aspiration and cognition—aspiration for a better life than they and their parents have ever known and cognition of what the industry can afford to pay. Profits, in their view, are ample and they are in any case being shared liberally with managers. What stands in the way of sharing the gain more liberally with workers is a class issue.

Their arguments may be exaggerated but not without merit. The industry-cum-region formula is used by all kinds of enterprises—those that can afford to pay more and those that cannot. I have often asked myself (and sometimes top managers I have met in my assignments) whether industry is guided by what it can afford to pay or by what workers are thought to deserve. Although wage fixation is a complex issue, the answer to this riddle is not so complex. Where profits are meagre it is affordability, and where profits are ample it is comparability with other workers doing similar work in the region (in other words, what they deserve). How much should a pharma company pay its packers? The wage cost of the company may be no more than 2–3 per cent of turnover (which is the norm for much of process industry), but does that mean that wages on the packing line should be doubled? What is there to packing anyhow? Anyone can learn the job in days. And, should we not consider what similar work gets elsewhere? It is all about what the packer deserves and not what the company can afford.

Workers approach the issue very differently. What they deserve is a matter of aspiration, the desire for a better life. It has nothing to do with the labour market, what similar skill and experience fetch elsewhere. What industry can afford to pay is a matter of cognition. They think industry is making money hand over fist. This may or may not be true, but workers have nothing to go by except what they see, and what they see is handsome managerial pay and perks and a general ambience of affluence. Workers across the board are convinced that supervisors and managers are not only paid too much but also employed in very large, and unnecessary, numbers. It all seems once again like a class issue. Managers are generous with their own kind but penny-pincher when it comes to workers.

Extravagant wage claims have been made in the past, but they usually came from outsiders who spoke on the workers' behalf, Datta Samant being

the best example. Employers were outraged, but they eventually found a way to neutralize these firebrands and douse their claims. This time around, these claims are emanating not from the leaders but from the workers themselves, and beating them down is going to be far more complicated.

The second issue that troubles workers is career. Typically, industry has nothing to offer blue collar workers by way of career growth. They finish more or less where they started, but today's aspirational workers are unwilling to accept this predicament. I raised the question of career expectations with a group of 25-year-olds in a plant on the outskirts of Chennai. They were all from poor families, with nothing more than a school completion certificate and occasionally a technical diploma by way of education. They spoke in one voice and with great passion. Their biggest aspiration was to learn English. Next on the list was computer education. There is no future, they said, if you don't speak English and aren't computer savvy. The last on their wish list was greater knowledge of their jobs and of their firm—the materials they handle, their properties, their relevance to the final product, suppliers, customers, competition and pricing. At 25 some of them had already climbed to the top of the blue-collar ladder. There were skilled technicians among them who could take independent charge without help from supervisors and managers. There were operators who could meet quality and quantity expectations without supervisors breathing down. At 25, their main concern was their future. What would become of them? The way things are, nothing would become of them—with nothing more to learn or do, they would freeze where they are.

I have seen workers' aspirations evolve over 50 years. The textile workers I knew intimately as a PhD student in the early 1960s (I had taken up residence with them for a year) were obsessed with just one question: would their jobs pay enough to feed their families? By the 1980s industrial workers were already quite well off, thanks to aggressive wage bargaining and guaranteed job security. They wanted their children to get a good education, move into white-collar jobs and escape from being working class. The question was whether they made enough money to ensure their children's future. Now, when we are well into the twenty-first century, workers are asking what would become of themselves. They know it is a competitive world, and not everyone can become a manager. But, what will happen to the best of them? Will they be held back just because they are from a poor background, because they don't have a university degree and cannot speak English?

Skilling and career growth are not a matter of priority for most unions. This drives a wedge right away between workers and their unions. Workers

are interested in career growth, but what unions want is a promotion policy. The core of such a policy, if it must at all get union support, has to be time-bound promotion based on seniority. The union argument is that methods of selection such as tests and interviews will be used by the management to push their cronies. Unions reject selection even if they are invited to be part of the selection process. Actually, the bigger worry for unions is that any method of selection, no matter how objective, will trigger conflict between their own members. There will be winners and losers, and the losers could well accuse the union of complicity with management. The last thing a union wants is strife within its ranks.

Employers do not want a promotion policy, much less a promotion policy that rewards seniority. They are interested in finding the best man for the job, which seniority cannot guarantee. Interestingly, even workers are not interested in promotion policies. What they offer is a slow grind that gives nothing to those who are above the ordinary. The collective cannot break the glass ceiling. Only individuals can, but the union is dead against letting the individual succeed for fear of collective revolt.

It is clear that trade unions are indifferent to one of the most pressing concerns of young workers in the organized sector. The glass ceiling is for now intact, although newer enterprises understand aspirations. They are preparing for the future by restricting entry-level recruitment to promotable workers with the right qualification.

6 EMPLOYEE RELATIONS IS THE WAY FORWARD

Recent acts of violence have to be seen against this context. The brutal violence and the targeting of individuals, especially HR managers thought to be behind the diabolism, come from irate mobs frustrated by the obstinate refusal to understand their concerns. Blaming it on an incendiary leadership might be convenient but not particularly helpful. Management have to find a response to workers' concerns. Even trade unions have to. What managers know, and are good at, is trade union management. They know how to deal with all kinds of leaders, from the best to the worst, to meet union demands with counterdemands and wrap up long-term settlements that hold for three years. This may no longer suffice. They need employee relations more than industrial relations.

At one level all this is old hat. Every firm I know claims to have done all this already. What have they done? The essence of the new wave in people management is the campaign for hearts and minds, not of the union but

of workers. The aim is to build bridges that end the fractious division of the firm into 'them' and 'us'. That is what employee relations is about. What they have done, on the other hand, is to rename personnel and industrial relations departments as HR. The label has changed but not the content. It is still IR, the business of managing the union, which essentially means managing the leadership. Employee relations sometimes lurks in the distance but as an optional extra.

This is the change at the corporate level. What of the plant? There is no shortage of firms that have experimented with quality circles (QCs), total quality management (TQM), total production management (TPM), just in time (JIT) and 5-Sigma (5S) but they are abandoned as quickly as they are started. Some firms have held on but for the wrong reasons. These are all methods of building relations—of building team spirit, camaraderie, fellowship and togetherness. Quality circles are more about the circle and less about quality, but those that have held on are fixated on the idea that QCs must lead to productive efficiency if they are to have any value. It is a mathematical approach to an emotional issue.

If we get more micro and move further down, it emerges that even the most elementary lessons in building relations have been forgotten. Senior managers rarely visit the plant. HR managers are even more firmly anchored to their seats in the administrative block. They only meet trouble-shooters who line up in front of their officers, evading work in the name of trade unionism. The only ones to be seen in the plant are lower-level functionaries—supervisors and deputy and assistant managers coming on shifts. So, who has got the finger on the pulse? Supervisors know their workers. They have seen the crisis coming, but it is useless knowledge because they are too low in the hierarchy to do anything about it. The worm's eye-view can be captured by listening to shop-floor staff but only if the hierarchy would let them speak. An even better way to know the undercurrent is an open house. This is arguably the best tool there is of two-way communications, but it takes qualities of the head and heart to make it work. Few organizations are able to sustain this forum for any length of time.

Employee relations is the only lasting, positive and genuine fix for IR. ER might sound elementary, but building relations is a long-haul job that requires single-minded attention. There are plenty of roadblocks, IR itself being one of the most potent and least recognized. Managers like to believe that dealing with a union is the same as dealing with workers. It sounds unexceptionable until workers throw out of the window a settlement that was thought to have been signed, sealed and delivered in their name or engage in

unspeakable acts of violence. This is a sure indication that management have been lulled into the false consciousness of mistaking the messenger for the message. They are paying the price for outsourcing HR. Things would not have come to this pass if they had invested in ER instead.

To illustrate the stalemate that now passes for industrial relations and flesh out the case for greater focus on employee relations, I narrate two recent cases that I know intimately and from both sides of the fence. I have been interacting with workers, their unions, shop-floor supervisors, the factory manager and his core team and finally the top honchos in the corporate office in both situations. What I have been through is not a one-off brush but continued engagement marked by repeated visits. As a researcher, I have had access to all the data I could ask for.

7 INDUSTRIAL RELATIONS TURNAROUND THROUGH BASIC EMPLOYEE RELATIONS STRATEGIES

The first case relates to a seemingly incurable situation that was turned around by adopting the simplest of employee relations strategies. The initiative came from the management, as it must for any turnaround. Much of what the management did was simple common sense and without any malice towards either the workers or their union, but the results were anything but common.

The 25-year-old plant producing chemicals is owned and operated by a highly reputed firm that pays top dollars for the best managerial talent and an undisputed market leader in its line of business. The plant itself has a rather dubious reputation. Some of this comes from its location in the Hindi heartland marked by an unruly social milieu, with its strong caste loyalties, factional squabbles and penchant for violence. It is a sub-optimal performer by the company's own admission. The company's strategy has been to meet growing demand by building new plants that are full of glitz and glamour, while leaving old plants where they were. The floor is littered, the heat is stifling, the machines are old and noisy and some sections are permanently enveloped in a dust haze. Workers must climb stairs carrying heavy loads, wipe away grease and grime and do much else that is not asked of younger workers in the newer plants.

Supervisors flog the machines, but with men they must walk a fine line. Workers are pushed and prodded but within limits. Contract labour is the critical factor that provides hope to both manager and worker on this battlefield. Of the 750 workers employed by the factory, only 200 are on

the permanent rolls. The rest are young, inexpensive and unorganized contract and casual labourers.

Permanent workers are by and large middle aged. They make good money by pursuing all kinds of business interests. Dependence on the wage for a living is limited largely to contract and casual labour. Work in the plant is also getting tough, thanks to collective agreements that are raising the bar and wage calculation systems that closely track performance. Permanent workers cope with these pressures by taking the help of contract workers. The supervisors look the other way so long as this is done within limits.

The permanent workforce is organized by a trade union that has total support. It is an internal set-up with no wider affiliation. The leadership is made up of men with a record of show-cause notices and suspensions, but with marriage, family, age and affluence they have become mellow. They are now men of substance, conscious of their importance and social standing. The president owns a couple of schools and an insurance agency of some standing. That, by and large, is the profile of the leadership.

Although the company is known for the quality of its management, it is run of the mill when it comes to managing people. Managers at the top of the hierarchy usually avoid showing up on the frontline. Those heading production and maintenance visit the plant when they must but the factory manager is a rare sight. HR managers are even more difficult to spot. Their job is to fix problems brought to them by the union and meetings take place in the office block located well away from the plant. For union leaders, visiting HR offers a convenient escape from work.

There are more chronic problems on the work front that are well recognized but papered over. The most intractable of them is absenteeism, which is very high among permanent workers. They absent essentially to attend to their business interests but feign illness. Medical certificates can be obtained at a price. Workers also use fake medical certificates to get on to the day shift and to lighter jobs. The breakthrough in this intractable scenario came with the arrival of a new plant manager: he identified the problems that needed attention.

1. There are two worlds in this small universe, a world of workers and another of managers, without very much by way of interaction, shared feelings or common culture and ideology. Workers have no respect for the management. Their grievances have not been addressed and there are no growth opportunities for them. They have received no training for years. They do not trust managers to be fair. In their view, the

management does not care for quality or safety. All it wants is production.

2. There has been no investment in the plant for years. The machines are old, breakdowns are frequent but production norms are being stepped up with every wage settlement.
3. There is lack of cohesion within the management. Officers and managers are not on the same page on issues relating to workmen and their union. The leaders can be unruly, disrespectful and abusive. The management is seen by officers to be weak, indecisive and incapable of pulling up errant workers and abusive union leaders.
4. The union has built its existence on workers' sense of frustration. In between wage settlements, their role is essentially to defend chronic absentees, produce fake medical certificates, sleep on the shop floor or loiter. They push their cronies for transfer to light work or preferred departments. Union leaders also take a cut from the company's transport operators and caterers.
5. We are soft on the union. We give in to their demands even when they are wrong. We rarely initiate disciplinary action. We have taken no action for years against absenting workers. Officers and managers lack the motivation to enforce discipline. Workers have no trust in the management. There is high dependence on casual workers. The union is right on top. These deficits show up in performance.
6. The plant is going through a difficult time. We have not been able to meet production volumes. We have short-circuited processes. We have slipped on quality, quantity and safety. The plant has been short on all performance criteria. Our job is to put the management back in the saddle and restore to the management the power and credibility it has lost.

His way out of this impasse was to begin with the basics and move gradually to issues that might spark a confrontation with the union. The plan was to first 'win the hearts and minds' of workers by doing things that were well within the management's power. In keeping with this approach, the management cleared the factory of litter, spruced up the machines, built a canteen for contract workers, refurbished workers' change rooms and washrooms and re-laid the roads. Long-pending medical insurance claims that were high on workers' lists of grievances were fast tracked with considerable success.

Managers began to visit the plant regularly, giving workers the opportunity to interact with them. The factory manager set an example by spending quality time in the shop every day. Two newsletters—one on plant performance and the other on safety—were started to keep workers informed. The factory manager and his senior team had an open house with officers, giving them a chance to speak up. Some of their grievances were redressed. In particular, management policies that placed officers below operators with regard to benefits and facilities were corrected so that they were either at par with workers or better.

The management started a whole slew of initiatives as part of its strategy of engaging with workers and their families. This included safety committees, suggestion schemes, courses in spoken English and personality development for workers' children and treatment at the company's expense in case of serious industrial accidents. The strategy was to project a favourable image of the management by engaging with workers and their families, recognizing outstanding performance, attending to welfare requirements and alleviating hardship by providing medical assistance. For workers who had experienced years of neglect and concluded that the management cared for nothing but production, all this was refreshingly new and welcome. With the basics in place, more serious issues had to be addressed. Absenteeism had assumed truly alarming proportions. Of the 200 permanent workers, 40 were absent for more than 100 days in the past year. More serious cases included workers who showed up for a day or two in a month and some who did not turn up for two or even three months at a stretch. No effort had been made to rein them in. Workers also used their influence with the union to move to light jobs on the day shift citing poor health. The management caved in to union pressure knowing that doctors had been bribed or pressurized to issue fake medical certificates in support of such transfers. Finally, supervisors were utterly powerless in the face of unruly behaviour by union committee members and their cronies.

The plant manager had acted *suo moto* on the basics. The union did not have to be consulted on repairing toilets and sprucing up the shop floor, but when it came to controlling absenteeism and weeding out bogus medical claims, it was useful to have the union on board. The interesting part is that it was willing. It is hard to say what caused this change of heart. The 'hearts and minds' campaign had by now gone on for a year and created enormous goodwill among the ranks of workers. Whatever the image of the company and its management, the plant manager was seen as transparent, well-meaning and doing his best for the common good. The management believed

that this groundswell of support forced the union to cooperate. In any case, it wouldn't have served the union to pick up the gauntlet over issues such as absenteeism that mattered only to its cronies.

Chronic absentees were counselled by a joint panel of the union and management to show up for work or face serious action. This did not help: some were in fact too far gone to even show up for counselling. They were summoned for a second round of counselling whose outcome was no different. About 30 workers, most of them union loyalists and some members of the union committee, are now headed for the chopping block. The joint committee also sent two dozen workers transferred on health grounds to a panel of doctors. When the reports came in, only five were found to be in poor health. The rest were sent back to their normal duties, once again with union assistance. Next in line was misconduct. Workers were warned in writing that misconduct would be dealt with as per the rules of the company. The unstated message was that the old style of condoning misconduct had come to an end.

It took a year for the management to spruce up the basics and enforce discipline. What they had put in place were essentially tiny steps, some with union help and some without. The result was a subtle shift in the balance of power. After looking down the barrel for years, the management had seized the initiative and turned around a sub-optimal plant. This had been achieved without fanfare and without much resistance from the union. There was plenty of unfinished business, however. The plant manager's progress report spoke of the need for new technology, a younger workforce to replace chronic absentees and a promotion policy that would motivate workers. It also stressed the need to strengthen employee relations that made the turnaround possible. The plant manager suggested increased engagement with workers' families, greater worker participation in areas such as safety and the canteen, a quarterly open house to encourage information flow and training for managers and officers in strategies that build trust relations.

8 MANAGEMENT AT THE CROSSROADS

The second case relates to a small plant employing 70 workers that produces high-quality materials for the automobile industry. The workers are young and drawn from a semi-rural background. The most they have by way of education is a school completion certificate and occasionally a technical diploma. They are first-generation workers new to the industry and its ways.

The factory itself is located in the neighbourhood of a huge metropolis, with a long history of militant trade unionism. Although from a poor background, the workers are full of ambition, thanks largely to the influence of the nearby city. They want to learn skills, earn more and move up in life but are not keen to trust their destiny to a trade union.

No one here is called a worker, much less a labourer. They are cell associates. The entire workforce is divided into cells. These are self-managing units that decide how to divide the work between the members. Responsibility for production lies not with individuals but with cells. The cells are expected to engage in process improvement. The underlying philosophy is that anything can be done better, in less time, with less effort and with less wastage. The expected outcome is smart work that delivers more by way of quality and quantity for less by way of time, effort, manpower and materials. It is the job of the cells to come up with ideas that result in continuous improvement. The cells are also responsible for housekeeping. They have to ensure that the workplace is tidy and the machines are in good shape.

When the plant was young, cells were a novel idea. They were in place but not up and running. Ten years down the road, they are firing on all cylinders. As a manager put it, “associates were open and willing but they had to be drawn in. They were listening to what they were told, but not going beyond. Process improvement was sub-optimal. The associates’ involvement in housekeeping and cleaning the equipment was hardly up to the mark. No one was against anything, but the passion was missing. The picture now is vastly different. Cells have become the heart and soul of the plant”.

Process improvement has produced good, workable ideas. The benefits are real. It has reduced waste, saved on materials, reduced spillage, improved housekeeping and enhanced safety. The initiative for much of this innovation has come from associates. The soft gains are even more impressive. There is a sense of fellowship across the board. In the words of a team leader, “associates have become more cooperative and there is greater ownership of the production process. They have been drawn into a relationship. Five years ago they hardly did anything on their own. They rarely took any initiative. The same associates are behaving very differently now. We are moving, and improvements are taking place all the time”. The departmental head was even more eloquent. “I feel for my associates,” he said. “I am in fact one of them. Improved efficiency is not the only outcome we want. Some of our cells may never win the best cell award, but that does not matter. What matters is that we are together, that

we work as a team. My officers are proud of our associates and we will always stand by them.”

Cellular production and process improvement have produced huge gains for the company. The plant has quickly ramped up production to meet rising demand from a buoyant automobile industry. The management have achieved all that they want by way of volume, quality and cost.

What of the associates? What have they got out of all this? We need to take a close look at this issue because trade union research, especially left-leaning research, tends to view management gizmos such as QC, JIT, cellular production and 5S with deep suspicion. They are seen as a clever management ploy to showcase partisan ends as shared interest. Therefore, the following question: why have these young workers taken to cellular production and process improvement with such zest?

The associates see at least three distinct benefits for themselves. First, cell production has taught them a range of skills that have value in the labour market. They are no longer village boys performing rudimentary tasks. The expectation is that the better among them will be rewarded with a promotion. There are also growth opportunities elsewhere for those with skill. Two, process improvement has resulted in smart working practices that have reduced repetitive action by eliminating needless body movement. Associates pointed repeatedly to smart work that cuts out pointless labour and reduces tedium as a major gain from process improvement. They have also moved up the value chain by learning to identify and resolve problems. Finally, communication is seen as a huge gain from cell production and process improvement. The belief is that associates now have access to all levels in the organization and there are no walls within the plant. These are huge benefits which conventional factories with their hierarchical structures and tediously repetitive work cannot offer.

This does not mean that associates have no grievance. There are unmet expectations, but they relate to compensation and not to work. Associates think they are being paid less than they deserve. Wages are revised every year, but this is done unilaterally. They also pay an annual profit-sharing bonus which too is unilateral. The last time the company announced a bonus, associates decided to boycott breakfast but work as usual. The management caved in quickly and increased the quantum. The associates want to know why the company cannot negotiate wage with a committee. When there are committees for just about everything, why not for wage and bonus? There is also the impression that while the company shares information when business is bad, good tidings are seldom shared.

Interestingly, the associates have never linked the wage issue with cellular production or process improvement. That is pay and this is work. Work practices are fine; the problem is with pay. Their point is simply that the company should pay more because it can afford.

The management is not quite clear on which way to go. Wages have of course to be negotiated if there is a trade union, but what if there is no union? With whom should they negotiate? Should it be with the entire workforce or with a committee? How is this committee to be made and by whom? The management is at the crossroads. While shared interests have been managed very well indeed, they are not so sure-footed when it comes to conflicting interests.

Firms that want to stay non-union know how to manage conflicting interests. Large firms in particular pay well above the market rate so that workers don't see much point in bringing in a union. But they don't stop there. They put down union formation with an iron hand, usually with the help of the state. In the present case, while the management does not want a union they also do not want to block its formation. Their argument is that they pay better than comparable firms although they may not be the best paymasters. Moreover, they revise wages every year whereas negotiated settlements hold for three years. The management has persisted with unilateralism in the hope that workers would not feel the need to organize. What probably weighed was their reluctance to wade into the unfamiliar waters of direct negotiations.

The associates are not keen on a union either. In my first interaction with them I was asked why managements are so fearful of trade unions. Five years down the road, the subject ceased to figure in our discussions. The topic was money and why it could not be settled through negotiation with associates. There were plenty of unions in the neighbourhood, but they came with leaders who had an agenda of their own. In any case, none of them had much to show by way of result even after protracted conflict. The associates thought they could drive a better bargain with the management than any union leader who had, after all, to be paid his arbitrage.

Eventually, unilateralism proved too much for associates. As the management dithered, they decided to approach a union. As is common in these parts, they chose a leader with a fearsome reputation. The plant ended up with an outcome that no one wanted. Among large sections of the management there was a definite sense of having missed the bus. No one quite knows what the union would do with cellular production and process improvement that had delivered such stellar results. The labour process

which has never been the bone of contention could become the battlefield. The union does not have to call a strike to put pressure on the management. It has to only ask the associates to withdraw from process improvement. If hostilities persist, boycott of cellular production and process improvement could become a permanent reality. The bonhomie that marks the relationship between associates, supervisors and management could become a thing of the past. Free-flowing information might yield place to walls that impede flow. The flat structure might give way to a hide-bound hierarchy. Even if none of this happens, the factory might lose its special character and end up like any other. The last outcome is all too probable. Unionism is not just about money. It is also about power. Any union would want to exercise power over the labour process.

9 EMPLOYEE RELATIONS: WHAT IS IN IT FOR THE STAKEHOLDERS?

The two situations we discussed have used employee relations strategies to great benefit. In the first, the management earned the goodwill of an alienated workforce by taking care of the essentials. Faced with an empowered plant manager, the union agreed to help in disciplining errant workers, most of them cronies without popular support. If the management stays the course, they should be able to get rid of chronic absentees, put an end to feigned illness certified by corrupt doctors and add some young workers to the rolls. This could eventually reduce the plant's dependence on contract labour.

The second case is a positive on all counts. Employee relations delivered everything that was asked of it until the management was confronted with the wage question. On this, there was no clear precedent, no obvious model to follow. Unable to fathom the pitfalls that might lie ahead, the management decided to continue with unilateralism. This was not the failure of employee relations. A negotiated settlement might have worked to everyone's satisfaction, but it was not tried.

The outcome for workers and their unions is more complex. As for workers, there were obvious gains and almost nothing that could count as a loss. This is especially true of the second situation where they enjoyed considerable say in the way work was organized and truly egalitarian treatment. These are rare gains in our oppressively hierarchical social order. They had also moved to more satisfying work and higher levels of skills, with obvious consequences for career growth. There were benefits for

workers even in the first situation. They had no sympathy for malingerers and absentees, and no tears were shed when they were pulled up. On the other hand, the management's effort to improve the ambience, upgrade basic facilities and redress routine grievances without waiting for union intervention were widely welcomed. The plant could be heading for early retirement of absentees and the promotion of some contract workers to permanent positions, which must also count as a gain.

In theory, the outcome for workers may not always be so positive. It has been argued that getting more out of workers will always remain the objective of management. Smart work might easily transform into hard work. The time freed by innovative reorganization of the labour process might result in workers being asked to take on more work and greater responsibility. Process improvement is a one-way street that permits no return to the old order. As they age and their reflexes slow, workers might find themselves saddled with a tight work schedule that permits no leisure. None of this has happened in the two cases, but there is no guarantee that it will not happen.

The outcome for the union depends on the employee relations model that management choose to adopt. There are hard and soft models, with different consequences. The burden of the hard model is that it is the responsibility of management to care for their workers. With a capable management in place, there will be no conflicting interests and no need for a union. Unilateralism is the doctrine, and it expects management to put down any effort to organise workers as being unnecessary and disruptive.

The soft model also requires management to care for their workers and to proactively initiate a range of strategies that promote multi-skilling, career growth, smart working practices, greater transparency, better communications, a lean organizational structure and improved hygiene. Workers can form a union if they want, but it is expected to limit itself to wage bargaining. Managing relationships is the job of management and not of the union. Building bridges with workers and promoting their participation in the labour process are key managerial responsibilities that cannot be outsourced. This is in sharp contrast to orthodox industrial relations where management's job is deemed to be done once they strike a wage deal. The union is expected to enforce increased workloads, improved productivity and better discipline. As the argument goes, unions cannot just take; they have also to give. The common result is a union oligarchy that makes promises without workers' knowledge or consent.

Few managements care to know if the union's promises have worker approval. Trade union democracy is not their business. What they want is a leader who delivers on his promise and democratic leaders are often not the best at delivery.

There is another dark side to conventional industrial relations. It can be convincingly argued that the prosperity which unions deliver to their members rides on the back of contract labour. The first case is typical of unionized plants. There are from 550 contract workers to 200 permanent workers. Permanent workers earn far more but work far less. Many don't even care to report for work. There is nothing unusual about this. Contract workers are the mainstay of production in almost every unionized plant. This is a source of worry for management, but they persist because it is the easiest way to reduce cost. The unions are also worried. Their bargaining power and claim to represent labour are under threat. Some unions have tried to organize contract workers, but permanent workers don't want their inclusion. This has led to the organization of contract workers as a parallel group within the same union. There are separate charters of demands and separate wage settlements even though the union is the same, the leadership is the same and the jobs for which pay is negotiated are also the same. The gulf between permanent and contract workers is untouched. Indeed, it now has the stamp of union approval.

It is obvious that the consequences of employee relations for trade unions are complex. The hard version is anti-union, but not the soft. What the soft model does in fact is force unions to vacate their familiar space and deal with issues of a higher order. Canteen food, leave entitlement, delayed reimbursements and supervisory practices can no longer be their staple. Nor is there an alienated workforce that is easy to organize. The union has to find new ways to organize workers and new issues to raise. This is bad news for unions that survive on a flimsy diet but surely not for unionism as an ideology.



Reflections for Unionization in a Globalized World: Evidences of a Converging Divergence

Girish Balasubramanian

I INTRODUCTION

The famous Canadian media theorist Marshall McLuhan coined the term ‘Global Village’ to illustrate the enabling role played by technology in the shrinking of distances. Undoubtedly the internet has played a pivotal role in the instantaneous movement of information at the tip of one’s fingers or the click of a mouse. The implication for the workplace is that it has given rise to the popular sobriquet Industry 4.0 or put in a simplistic way the blurring of the traditional factories and the rise of giant interconnected autonomous networked value chains (Almada-Lobo 2016; Kagermann 2015; Lasi et al. 2014). Industry 4.0 is premised on a large interconnected network, somewhat like the World Wide Web, with the ability to carry out autocorrections in the processes in real time. This phenomenon includes aspects such as automation of machinery, Internet of Things as well as

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cloud computing. Thus, the economic activities are transitioning into 'smart' activities such as smart factories or application-based aggregators of service providers such as Ola, Uber and Amazon, to name a few, where the monitoring can be carried out by cyber-physical systems. This invariable automation leads to blurring of boundaries of the traditional factory coupled with structural changes to the workforce which have resulted in many changes in the modern-day workplace. A second fallout of these structural changes is the rise of informal and precarious employment. Such work is characterized by freelance work or short-term contracts coupled with high-risk and exploitative working conditions as opposed to permanent jobs. India is no exception to this phenomenon. As per the 2008 estimates of Women in Informal Employment: Globalizing and Organizing (WEIGO), the informal sector contributed around 46 per cent of the gross value added (GVA) (WIEGO 2015). As per the National Sample Survey Organization (NSSO) estimates of 2014, informal sector employment is estimated at 75 per cent in urban areas and 69 per cent in rural areas of the total employment (NSSO 2014). The collectivization of workers invariably has borne the brunt of such changes. The vulnerabilities of informal employment are well documented like exploitative working conditions and the tenuous nature of employment relationships; these are worsened and even sustained, thanks to low probabilities of existence of a trade union or other forms of workers' organizations that can act as a countervailing force to the extreme marketization. The informal sector has largely been out of the purview of the trade unions till recently.

The geographic idiosyncrasies in the trade unions are evidences of the multiple connotations and varied activities of the trade unions in different contexts (Visser 2006), consequently leading to a nebulous conceptualization of what constitutes a workers' collective or, more specifically, a trade union, which is one of the stumbling blocks of the scholarship on unionism. Besides trade unions are embedded within the larger social structure of the society where they function and hence are also subject to the societal influences—which leads to differences in the conceptualization of the trade unions. For this chapter we conceptualize trade unions as voluntary associations or collectives of individuals whose dominant objective is to represent their interests to the employers or the state on the lines of Bain and Price (1980). It is notable that this conceptualization is also a slight

deviation from the definition provided in the Trade Unions Act, 1926¹ (TU Act), since it is possible to get the workers' organization registered under other laws such as the Societies Registration Act, 1860, while in form and objectives it would constitute to be a workers' collective; legally it is not governed under the TU Act. Besides, it is posited, based on evolutionary biology, that trade unions also are likely to reinvent themselves suitably (may be a change in form, structure or functions) to make themselves more relevant to the contemporary times. A broad conceptualization of a trade union is a necessity as the connotation of work has undergone a huge change and has moved away from the traditional factory-based worker to include other forms of work. Additionally, it is not only limited to the workers from the formal economy or a specific sector, but it also tends to include the precarious workers and the workers from the unorganized sector more popularly referred to as the workers in the space between unions (Sullivan 2010). Sceptics might argue about the blurring of differentiation between other competing actors such as the non-governmental organizations (NGOs) or community-based organizations (CBOs) or other forms of workers' collectives. The idea is to not quibble over the terminology but to explore various alternative forms of workers' collective whose dominant objective is to safeguard the interests of its constituents which are variously referred to as trade union, workers' collective and so on. This conceptualization has a bearing for the subsequent elaboration of the trade unions in the contemporary times. It is also important to clarify that for this chapter both trade union and workers' collective have been used interchangeably.

In the next section, the theoretical basis for the forms of trade unions has been explicated. Subsequently three alternative forms of workers' collective (two of them are trade unions registered under the TU Act and the third one is a non-governmental organization [NGO]) have been explained. The chapter ends by drawing out the convergence and divergences from these organizing stories.

¹Trade union is defined in Section 2 (h) of Trade Union Act, 1926 as "Any combination whether temporary or permanent, formed primarily for regulating the relations between workmen and employers or between workmen and workmen or between employers and employers or for imposing restrictive conditions on the conduct of any trade or business and includes any federation of two or more trade unions."

2 FORMS OF TRADE UNIONS

The dynamic nature of the various factors influencing the industry and consequently the industrial relations introduce a certain complexity within the larger system. The questions around collectivization are no longer limited to the nature of demand and supply of labour but include several contemporary factors such as the IR climate, the socio-political factors, the collective bargaining institutions and the presence of human resource (HR) practices. HRM is a metamorphosis of the erstwhile personnel management function and it came into being around the 1980s in US and by the early 1990s some or the other form had been adopted by many firms (Taylor and Ramsey 1998). The prevalence of HR practices is characterized by the sobriquets of ‘hard’ and ‘soft’ HR praxis. ‘Hard’ HR practices are characterized by tighter controls, a rigorous top-down approach and an outrightly unitary view, having no scope for representation or the collectives; ‘soft’ HR practices are characterized by a focus on both customers and engagement and commitment initiatives. Conceptually ‘soft’ HR practices are open to joint consultation and representation but the ultimate focus is to win the hearts and minds; thus, it appears benign outwardly but soft HR practices’ ultimate goal is unitarism (Legge 1995; Taylor and Ramsey 1998). While the contemporary HR practices advocate for the reduced role of collectivism and trade unions, it is interesting to note the resurgence of workers’ collectives in hitherto unheard-of sectors, especially from the emerging economies. The quest for cost control to remain competitive is one of the outcomes of globalization, the brunt of which is often borne by the workforce in the form of casual labour, contract labour or other forms of outsourcing. Moreover technological interventions have resulted in the creation of new types of jobs, some of which are also precarious in nature (Standing 1999). Even as the sphere of waged work has been reshaped the traditional trade unions are still considered the champions of the cause of the labour, often leading to the exclusion of other interesting organizing stories or forms of the workers’ collective (Sullivan 2010). Scholars have consequently advocated for a broader definition of trade unions which alludes to the alternative forms more popularly referred to as the space between union and CBOs (Sullivan 2010). Fantasia and Voss (2004, 108) have further elaborated on the space between unions as “the development of several new organizational forms that are coming to occupy the spaces between the labour movement and those stigmatized social groups previously excluded or ignored”. The

perspectives of evolutionary biology offers interesting parallels for scholars of industrial relations to inquire into the changing ‘forms’ of the trade unions (Hannan and Freeman 1977). Organizations (not limited to businesses/firms) also undergo changes due to the external environments and they tend to mutate or develop into different forms. The changing forms of the trade unions would be the focal point of this chapter in subsequent sections (Hurd 1998; Ross 2013), specifically to understand the alternative forms of collectivization in India. Thus it is argued that the scope of a trade union/workers’ collective needs to be broadened to include “workers in the space between the unions” (Fantasia and Voss 2004) to understand the alternate forms of collectivization.

The aim of this chapter is to present a survey of some pertinent alternate forms of unionization within India that offer hope not only to the collectives in India but also to the workers in other parts of the world. The choice of the trade unions undoubtedly could be exhaustive but for the sake of brevity and lack of space only three interesting organizations have been chosen, namely the Hawker Sangram Committee (*Sangram* in the vernacular means struggle), (a collectivization of the hawkers in Kolkata), Civil Initiatives for Development (CIVIDEP)—with a very specific focus on garment workers in Bengaluru—and the Kagad Katch Patra Kashtakari Panchayat (KKPKP)—a Pune-based trade union of waste collectors and ragpickers which has contributed towards fighting the menace of urban waste. These campaigns from diverse working areas of economy were chosen keeping in mind the definition of the trade union which gives primacy to the workers’ rights and struggles. Besides, the three organizing stories also give rich insights into the varieties of strategies adopted and changes undertaken by the trade unions in the face of adverse conditions. The three stories also provide ample scope for the scholars and students of industrial relations to understand the metamorphosis of the trade unions and give an insight into the dynamics of organization of workers in non-traditional sectors/feminized sectors of work.

3 ALTERNATIVE FORMS OF UNIONIZATION: CASE OF INDIA

A synthesis of the key points of similarities and dissimilarities of some of the noteworthy organizing campaigns in different sectors is presented in this section. A conscious choice of explaining three organizing campaigns has

been made rather than focusing on many organizing campaigns. The trade-off is to better understand the dominant strategies/ideologies and functioning of the workers' collective. To this end the aim here is also to demonstrate the aspect of converging divergence—converging on the need and presence of a workers' collective with a focus to safeguard the monetary and non-monetary interests of the workers but diverging in the approach to achieve this end.

3.1 *Hawkers' Movement: Kolkata*

With the rapid rates of urbanization, the governments have also started parallel projects for the beautification of the cities. The administrative machinery of a city often grapples with infrastructural issues, especially with large-scale migration of a majority of landless peasants in search of greener pastures to the city. Street vending is a very common phenomenon of the developing economies which raises a lot of unpleasant questions about urban governance, usage of public space and the neoliberal reforms vis-à-vis the urban poor, and the major cities of India are no exception to this (Anjaria 2006; Bayat 2000; Steel 2012). The street vendors are often seen as a 'menace' and a blemish in the otherwise pristine urban setting (Rajagopal 2001). Many cities in India are facing a severe resource constraint and problems of severe congestion and chaos. The street vendors bear the brunt for this congestion and chaos under various stereotypes such as preponderance of migrants in street vending; street vending being a temporary phenomenon, sooner or later individuals involved would be absorbed in the formal sector and most importantly in the debate on right of usage of public spaces—the urban elites and activists have formed a popular opinion that the pedestrians are the rightful owners of the footpaths and hence 'others' need to be evicted (Dunier and Carter 1999). The current ambitious project of developing smart cities also raises important questions on the viability of street vending and hawkers.

The history of the hawkers and street vending of each city has its own idiosyncrasies and has received attention from intellectuals and social activists, though it has received relatively less attention from the lens of industrial relations, especially union or workers' organizational revitalization (Bandyopadhyay 2011). The hawkers of Kolkata have had a long and eventful history with the government and administrative machinery, notably the Public Works Department, Calcutta (now known as Kolkata) Metropolitan Development Authority (CMDA) and the Calcutta Municipal Corporation.

The hawkers of Kolkata began their tryst with the authorities as early as the late 1950s when the then chief minister of West Bengal, Bidhan Roy, had resorted to an eviction drive, albeit unsuccessful. With the aid of the then middle class and the sympathetic activists, the hawkers were able to resist the onslaught by the authorities. This eviction drive was primarily to restore the beauty of the colonial architecture of the Presidency College and the University of Calcutta (Bandyopadhyay 2009). Because of several reasons such as influx of refugees from the then East Pakistan (now Bangladesh), the declining revenue levels of the municipal retail markets, eviction drives and subsequent rehabilitation attempts continued till the 1970s. Efforts were taken by the then United Front Government in 1969 and subsequently in 1972 by the Congress government which however proved to be futile. After sporadic and unsuccessful attempts at eviction of hawkers, the three wings of the government, namely the Public Works Department, the Calcutta Municipal Corporation (now Kolkata) and the Calcutta Metropolitan Development Authority (CMDA), joined hands. The economic conditions of the corporation run retail shops can also be considered another trigger point for the action against hawkers as it is noteworthy that by 1972 these retail shops were running on a loss (Bandyopadhyay 2011). Notable among these eviction drives are the Operation Hawker in 1975 and Operation Sunshine in 1996, where unsuccessful or preferential attempts of rehabilitation were made. Prior to the Operation Hawker in 1975 there were other such operations which led to the collectivization of the hawkers in small pockets.

By 1977 Bengal had a Left government under the late Jyoti Basu. The Communist Party of India (Marxist) (CPI(M)) also had a hawkers' union, Calcutta Street Hawkers' Union (CHSU), which was affiliated to Center of Indian Trade Unions (CITU). Till the 1990s the CPI(M) was able to maintain a balance between various competing supporters notably the urban populace and the urban poor/labour. Specifically, the street vendors/hawkers were managed through the licenses (which were stopped after 1977). Operation Sunshine was a culmination of the then Left government to regain its urban supporters. Operation Sunshine itself has an interesting history of complex interplay of urban restructuring and a failed attempt at leveraging the support of the urban elite by the erstwhile Left government—street-side stalls were demolished and further the Kolkata Municipal Act was amended to punish unauthorized occupation of streets and pavements. Despite the presence of CHSU, they could not really confront the state machinery or effectively represent

their constituents because of their tacit support to CITU and consequently the ruling Left government. The Hawker Sangram Committee (HSC) filled out this vacuum of representation. HSC was thus a fallout of the infamous ‘Operation Sunshine’ eviction drive by the then Left-ruled West Bengal government, the municipal corporation, and assisted by the law enforcement agencies in which 32 major non-CITU-affiliated unions came together. The aim of HSC was to safeguard the interests of its constituents, that is, the hawkers and effective representation in front of the state. The CHSU because of its affiliation with CITU decided to keep away since they could not directly confront the state. To that extent it can be inferred that CHSU was reduced to a mute spectator of the activities of their union affiliates CITU and political affiliates CPI(M). Unlike their counterparts CHSU, HSC adopted an aggressive approach resorting to damage of public property, violence, demonstrations and resorting to *gheavos*² apart from seeking redressal from the judiciary (HSC 2007). The notorious Operation Sunshine was followed by a selective rehabilitation by the then Left government, despite which hawkers returned to the streets from where they had been evicted. The HSC used this to their advantage to project it as a victory of their struggle and confrontational tactics. The anti-eviction drives albeit also ended up creating a much-needed solidarity and a unity amongst the hawkers. Operation Sunshine was not followed by any major eviction drive. The HSC has been able to assert itself as one of the key custodians of the hawkers’ and street vendors’ rights as well as effective representative. Gradually the administrative machinery and the political parties out of the electoral compulsions have developed closer ties with HSC. Over the years after this operation the state has co-opted the HSC into the urban economic activities and carries out consultations with them as major stakeholders. HSC undoubtedly is a very powerful representative of the hawkers and street vendors of Kolkata with a say in matters of policy. The clout of HSC can be inferred from the fact that they have reliable information on the hawkers which is not only an important part of the census requirement but also a necessity to undertake suitable policy changes/interventions. The baseline 2006 survey of HSC is a very good example (HSC 2007). HSC plays a significant role in the access to credit for the hawkers, allotment of space to the street vendors and regulation of the number of

² A protest in which the workers prevent employers from leaving the place of work till some demands are met.

vendors (including the entry of new vendors) in an area. The HSC plays a pivotal role in settling internal conflicts among the hawkers and managing space between hawkers and beggars, vagabonds and pavement dwellers. They also liaison with the administrative officials of the municipality for the smooth functioning of day-to-day operations and control/undertake surveys by the government or other groups. Thus, HSC in Kolkata certainly has played a significant role as the custodian of the hawkers' cause and in some ways a quasi-government which maintains the internal order and harmony.

The question of accommodating the hawkers within the urban landscape especially assumes importance in the backdrop of the project of smart cities being adopted by the governments—especially the question of creating exclusive spaces for the 'elite' at the expense of those earning their livelihood and conceding those spaces to formal retail shops including giants. Despite these questions, HSC has shown a way forward for the hawkers and the administration from other prominent cities of India and the world, using the unique approach of aggression followed by co-optation (Bandyopadhyay 2009).

3.2 *Women in the Unorganized Sector: Garment Industry of Bengaluru*

Government and the mainstream trade unions are largely similar in their apathy towards the unorganized sector, especially women, and often other organizations and philanthropists fill this space. When it comes to the fair sex they are far more on the receiving end of the informal employment which includes discrimination, lack of health, sanitary and maternity benefits and child care facilities at workplaces, despite ILO guidelines on maintaining certain labour standards such as regulation of working time, occupational health and safety policies and social security provisions to name a few (see International Labour Organization 2014). While there are many legislations specifically for protection of women, such as the Equal Remuneration Act, 1976, the Maternity Benefit Act, 1961 (recently amended in 2017), and Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, their enforcement is acknowledged to be ineffective (Papola et al. 2008). Further, structural changes to the economy have resulted in more number of women participating in the workforce. This has definitely led to a need of effective representation of women through a trade union. Menon (1992) has

documented the failures of mainstream trade unions' abysmal performance with respect to women's issues such as lack of women trade union leaders, inability to attract more women as members and inability to treat women at par with their male counterparts. Consequently, the mainstream trade unions are not able to efficiently safeguard the interests of the women. The government tries to fill this vacuum by enacting legislations. However these legislations often lack the necessary teeth (they have earned the notorious sobriquet of 'paper tigers' [Pollert 2007] as well as fall short on the implementation and enforcement [Papola et al. 2008]). It is noteworthy that despite the documented apathy of the mainstream trade unions collectivism has been able to rear its head in different forms which is the focus of this section—specifically to understand the history of CIVIDEP and its functions. The apparel and the leather industry receive significant policy attention from the government as being labour intensive, it can generate employment, especially for women (Subramanian 2017). Bengaluru is a major hub for the garment manufacturing and exports which also employs women largely from the rural sector—in and around the areas of Mysore Road and Bommasandra where this industry is concentrated. The industry moved to the new export zones to leverage on the provision of incentives by the state governments. This industry is a very good example of 'feminization' of jobs—which essentially hints at an increasing proportion of women in the jobs as noted by Standing (1999, 587). "Industrialisation based on textiles, garments, electronics and other 'light' industry, female participation and employment has tended to rise sharply." 'Feminization' of jobs is coupled with labour flexibility whose outcomes are rising job insecurity and precariousness (Standing 1999).

Women workers (large in numbers) in the garment industry here are subject to exploitative working conditions, lack of basic facilities, verbal abuse, lack of enforcement of social security legislations and arbitrary employment terms which have received scholarly attention (Roopa 2003). Such employment conditions are a common feature of the garment industry of the developing economy which are notoriously referred to as 'sweatshops' (Gordon 2005). In line with the argument pertaining to mainstream unions, the presence of traditional trade unions in the industry is low for three reasons, viz. large presence of women (feminization of jobs), geographically spread-out presence of firms and the low capital-intensive nature of the industry. Attempts of collectivization such as those at some of the units of Gokuldas Images and Samrat Asoke garment manufacturing units were thwarted by the employers (Roychowdhury 2003).

Around 1980s, Gokuldas Images, one of the units at the Magadi Road in Bengaluru, faced the threat of unionization which was averted by shifting the unit to Hebbal Road, which was slightly distant, and subsequently it was sold off. The new management retrenched the old employees and subsequently closed the unit. After a prolonged legal fight against the closure, the workers finally lost their case in 2003. In the second instance, CITU was involved in organizing a strike at Samrat Asoke garment manufacturing unit which subsequently led to the closure and loss of about 10,000 jobs; in the process the workers were not only discouraged but the trade union was also subdued. Denial of freedom of association, unreasonable production targets, low wages and verbal abuse of the workers, especially women, are some of the key issues which have been highlighted frequently in the garment industry.

Around 2000, the Civil Initiatives for Development (CIVIDEP) was formed to address these issues and more importantly to fill the vacuum created by mainstream trade unions. The founding members have had a long history with the social activism in the country and some failed attempts of organizing in the garment sector. While one of the members shifted from active politics to CIVIDEP, two others have been associated with the garment industry and have further been at the receiving end for trying to organize workers from this industry. As opposed to the militant approach of HSC, the CIVIDEP has adopted alternate means such as 'campaign mode' or contacting the relevant authorities (the labour commissioners or the National Commission of Women [NCW]) for easy and quick redressal of issues involved (Roychowdhury 2005) and to highlight the appalling conditions of the women in the garment industry to the state and the larger civil society. In one such garment factory, the workers approached CIVIDEP and due to their interventions the NCW and labour commissioners visited following which corrective measures were taken. It is noteworthy that the workers of the garment sector in Bengaluru may or may not be aware of what is a trade union. CIVIDEP enjoys a good reputation. CIVIDEP was formed with the aim of empowering workers and ensuring that businesses comply with the relevant labour and environment standards. To this end CIVIDEP engages in creating awareness amongst the civil society, carrying out research to effect policy change and partnering with leading global agencies such as the Norwegian ForUM for Development and Environment (a network of 50 Norwegian organizations for environment, peace and human rights). While union-like activities like negotiation and collective bargaining are on the cards, the

CIVIDEP consciously avoids calling themselves as trade unions for fear of rejection by both employers and workers. They are very clear that they would not indulge in enterprise-level wage negotiations but would rather lobby with the government to increase the minimum wages. CIVIDEP focuses on the creation of self-help groups for women to facilitate the micro-credit and conduct training programmes for awareness on labour issues through noted labour activists and advocates. Instead of directly confronting the employers and the state, CIVIDEP is aspiring to create an opinion forum of both producers and consumers to highlight the problems and exploitation—the hope being that international fora would create a pressure situation for the state and the state in turn would rein in the employers. On the lines of the anti-sweatshop campaigns which essentially created pressure on the multinational firms through the buyers, sustained awareness and campaigns have ensured that those units supplying to stalwarts like Nike and Walmart are subject to regular checks. CIVIDEP additionally also has partnered with several global institutions such as the Clean Clothes Campaign, an alliance of 15 European countries working for the fundamental rights of the workers in the garment industry, and OECD watch, an international network promoting corporate accountability. Further CIVIDEP is not only limited to the garment sector, but its activities also spawn across the electronics, manufacturing and plantation sectors.

3.3 *Kagad Kach Patra Kashtakari Panchayat*

One of the side effects of rapid urbanization is the immense amount of waste that is generated and both the developed and developing economies are grappling with adequate methods of waste management (EPW 2012). The prevalent solution in India is to either dump the waste that is collected in large identified landfill sites or incinerate the waste (Idris et al. 2004). Both the solutions are not viable. With sprawling urban spaces, and constraints on resources, the city administration often resorts to outsourcing mechanisms for waste collection and disposal. While the logistics are an issue, the workers involved in such tasks of waste collection are often ignored as a part of mainstream workforce. Thus, we find common thread of exclusion, exploitative work praxis and lack of any sort of social security benefits in the case of informal workers. Additionally, complexity within the existing legal framework leads to ambiguity about the inclusion of individuals providing the service of waste collection within the definition

of ‘workers/workmen’ (Chikarmane et al. 2001). Nevertheless, *Kagad Kach Patra Kashtakari Panchayat* (KKPKP) in Pune is an exception. KKPKP is a trade union of the waste collectors of Pune. The abysmal working conditions of ragpickers and waste collectors have been highlighted in several studies, for example, see (Gidwani and Reddy 2011; Sarkar 2003; Zia et al. 2008). Traditionally, the work of waste collection is looked down upon and often the individuals engaging in such work belong to the oppressed and the relatively backward segment of the society, and like the waste which is removed and disposed of, they often do not find mention in the conventional mainstream workers’ rhetoric. Additionally, this work is akin to any daily wage employment requiring less skills (Bhaskar and Chikarmane 2012). Apart from the stigma associated with the work, they are also subject to bullying and extortion from touts and law enforcement agencies.

Following the footsteps of the formation of *Hammal* (head-loaders) *Panchayat* in Pune (Deshpande 1999) and the success of Self Employed Women’s Association (SEWA) (Jhabvala 1999), KKPKP was formed in 1993 as a trade union (and registered under the Trade Unions Act, 1926) for the waste collectors to safeguard their interests. Union formation and sustained campaigning by it created awareness of the exploitative conditions faced by these workers in the society. The legitimacy of the waste collectors’ profession, their individual backgrounds coupled with the complex socio-political situations presented major challenges (Chikarmane and Narayan 2000). Unfortunately, individuals associated with this work have traditionally been marginalized and remained without any voice or identity. The formation of KKPKP filled this vacuum by not only carving out a unique identity but also providing these individuals with a voice. As on date KKPKP boasts of more than 9000 members, majority of them women (SWaCH 2018). The membership facilities include an identity card, insurance cover, facilities for loan and education support for their children at an annual subscription fee (SWaCH 2018).

Waste management gained currency notably after the United Nations Conference on Environment and Development in 1992 also referred to as Rio Summit which came up with a concrete action plan to battle the climate change and preserve biodiversity. Closer home the Supreme Court appointed a committee on the assessment of solid waste management in Tier I cities and it gave a critical assessment of the urban local bodies which were not only deficient with respect to infrastructure but also barely efficient (Barman et al. 1999; Economic Times 2018). Further the

Supreme Court, taking note of Delhi figuring in the list of most polluted cities, came up with strict guidelines and recommendations for the urban local bodies (Shah et al. 2000). The Second National Commission on Labour (Ch. 7, p. 643) on the unorganized sector has also recommended forming worker boards for waste pickers and provision of social security measures for them.

Taking a cue from other sectors privatization seemed a panacea for the waste management sector too. KKPKP had the option to either get into a traditional union relationship with the new private entrants or to oppose privatization tooth and nail which again resorted to conventional ways. KKPKP came up with an innovative solution of forming a cooperative by the name of Solid Waste Collection and Handling (SWaCH), which incidentally means clean/cleanliness in the vernacular. This cooperative was further endorsed by the municipal authorities. The model of SWaCH was unique as it offered door-to-door garbage collection and segregation services at a cost. SWaCH provides a unique example of public private partnership where the beneficiaries are from the economically and socially challenged segment. SWaCH also metamorphosed into SWaCH Plus which offers other services such as collection of e-waste, old clothes, old usable household items and conducts awareness campaigns. The cooperative provides dignified employment, enhanced livelihoods and at the same time plays a significant role in waste management (Bhaskar and Chikarmane 2012). As of December 2016, the cooperative has serviced about half a million households daily and recycled about 170 tons per day (SWaCH 2018). Critics and detractors do bring about several issues related to logistics, health concerns for the workers and say that machines should be deputed to handle waste rather than the human beings. There are other operational issues such as that of scalability of this model, the replication of the successes achieved in Pune and at other locations and provision of amenities such as old-age pension for the workers who decide to retire (Chikarmane 2012). Despite these issues KKPKP and subsequently SWaCH had made a mark not only in the field of waste management but also in the lives of those who are involved in this abhorrent activity. It is safe to assert that KKPKP and SWaCH made an impact on workers associated with waste collection and management by providing them with not only a political identity and voice within the society and economy but also an alternate business model.

Table 17.1 summarizes the key alternative forms of trade union/workers' collective that the three organizations have taken.

Table 17.1 Summary of the alternative forms of trade unions

<i>Name of the organization</i>	<i>Alternative forms of the collective</i>
Hawker Sangram Committee (HSC)	Initially started as a trade union which gradually assumed the role of a quasi-governmental organization
Civil Initiatives for Development (CIVIDEP)	Taking the route of a non-governmental organization and giving voice to a feminized workforce
<i>Kagad Kach Patra</i> <i>Kashtakari Panchayat</i> (KKPKP)	Initially started as a trade union which then metamorphosed into a workers' cooperative through the support of the administrative authorities

Source: Constructed by the author

4 CONCLUSION AND WAY FORWARD

I started the chapter by pointing out the need and necessity to broaden the scope of trade unions to include other forms of organizations such as community-based organizations, workers' collectives or other organizations which have the primary objective of safeguarding the rights of its constituents. Further, using the theoretical lens of evolutionary biology and the analogy of evolution, it is posited that organizations also evolve and trade unions as organizations too are not an exception. With a specific focus on India, three specific cases of alternate forms of workers' collectives were described which present evidence on workers' collectives being very much a part of the modern economy. The next important aspect that I have demonstrated through this chapter is that the workers' collectives are making their mark in hitherto unheard-of sectors and spaces such as the hawkers or the street vendors and the waste pickers. It is also notable that the workers' collective has been able to garner support from women contrary to their counterparts from the mainstream trade unions. It is also noteworthy that the concept of trade unions being champions of factory-based workers and limited only to the national-level trade union centres or enterprise-level trade unions has undergone a significant change. The significant commonality for all the three cases is the pathetic and exploitative working conditions, be it the hawkers, the garment workers or the waste collectors which led to the collectivization attempts. The second major commonality is the gendered nature of the work—all the three cases were indicative of a significantly large chunk of women participating as a workforce. The third major similarity is the role played by the immediate

community and the workers' collective being able to leverage their support. Thus, there seems to be some sort of convergence.

The three cases also have marked dissimilarities. Table 17.2 (see in the Appendix) presents a summary of the various divergences observed amongst the three organizing stories presented earlier. The first major dissimilarity is the varied nature of work that is being performed by the constituents of all the three collectives, namely hawkers and street vendors for HSC, garment workers for CIVIDEP and waste collectors for KKP KP. The second major dissimilarity is with respect to the strategies adopted. While the HSC chose to adopt militant and confrontationist approaches to safeguard their rights, the CIVIDEP chose to create awareness at local levels and coalition at the international platform as alluded to earlier in terms of creating an international opinion forum against the exploitative labour practices with both the producers and consumers, while the KKP KP chose to create awareness at the local level with the affected stakeholders. Thirdly the divergence points are with respect to the actions of the state and the administrative machinery—in the case of HSC the state and the city administration finally decided to co-opt the HSC in policy matters, and in the case of KKP KP, the city administration was quite supportive of their efforts and supported their cooperative. Another major dissimilarity is the varied nature of the work right from street vending to waste collection and garment manufacturing which points out to the expanse of the economic activities and hence reiterating the need to broaden the scope of work as well as the workers' collectives. Finally, since the forms of the trade union have been the major focus of this chapter, it is pertinent to compare them within the legal definition of the Trade Union Act of India, 1926. While the 32 smaller trade unions have come together to form the HSC and hence HSC can be called a trade union within the meaning and definition of the relevant legislation, CIVIDEP, which is registered under the Societies Registration Act, 1860, calls itself an initiative for development, consciously or unconsciously avoiding the term 'Trade Union' and hence clearly, they do not fall under the definition of trade union as the TU Act. KKP KP is a registered trade union of waste pickers, but SWaCH an offshoot or a workers' cooperative cannot be brought within the understanding and conceptualization of a trade union under the relevant legislation. The three instances of collectivization are illustrative that despite globalization, when it comes to labour praxis, contextual idiosyncrasies merit attention and a one-size-fits-all approach can

seldom be adopted. Based on the similarities and dissimilarities that have been highlighted, I would like to posit and argue for the evidence of converging divergence.

These instances of workers' activism provide ample hope to the already-beleaguered trade unions or workers' collectives in India and elsewhere in the world. The way forward for the field of industrial relations in general and trade union studies in particular is quite interesting. The three instances of collectivization in different contours provide enough ground to revisit the conceptualization of a traditional trade union as well as the traditional understanding of a waged labour. For the traditional trade unions, it is about time that they took notice of the changing work scenarios and explored new avenues for enhancing collectivization of workforce. Towards the beginning of this chapter, we referred to the changing work forms such as the 'gig economy' or the just-in-time workforce. These instances of collectivization provide hope to such workers as well. At the policy level it is about time that the archaic definitions and legal terminologies are revisited to incorporate the change in the work praxis, owing to the structural changes in the workforce.

APPENDIX

Table 17.2 Summary of the significant divergences in terms of strategies and sectors for the three organizations

<i>Name of the organization</i>	<i>Whether trade union is under TU Act</i>	<i>Location in India</i>	<i>Industry/sector</i>	<i>Dominant strategy</i>
Hawker Sangram Committee (HSC)	Yes	Kolkata, West Bengal	Street vendors/hawkers	Confrontation/aggression
Civil Initiatives for Development (CIVIDEP)	Registered under the Societies Registration Act	Bengaluru, Karnataka	Garment workers in and around Bengaluru	International opinion forum/activism
<i>Kagad Kach Patra Kashiakari Panchayat</i>	Yes	Pune, Maharashtra	Ragpickers/waste collectors	Co-opting with the State

Source: Constructed by the author

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PART IV

Jobless Growth, Industrial and
Employment Policies and Labour Law
Reforms



The Dynamic Nature of Jobless Growth in India

Vinoj Abraham

I INTRODUCTION

Employment growth in India had been by and large stagnant throughout the last quarter century (Himanshu 2011; Thomas 2012). Estimates show that there was a secular decline in employment growth from 2 per cent per annum, from 1999–2000 to 2004–05, to around 0.7 per cent per annum, from 2004–05 to 2009–10, and further down to around 0.4 per cent per annum from 2009–10 to 2011–12 (Mehrotra et al. 2014; Shaw 2013). This low employment growth was accompanied by a remarkable long-run growth in GDP of about 5–7 per cent since early 1990s (Kotwal et al. 2011), encouraging scholars to identify this period as one of ‘jobless growth’. Studies addressing the issue have largely been confined to the organized manufacturing sector and they have come to the conclusion that the phenomenon is essentially a consequence of increasing capital intensity in production (Kannan and Raveendran 2009; Sen and Das 2015).

This period, nevertheless, has witnessed an accelerated structural change in output wherein a service-centric growth has emerged, eclipsing

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the agriculture-based growth (Papola 2012). Accompanying this transformation in output, the industrial structure of employment also has undergone a transformation whereby the share of agricultural employment declined from about 62 per cent in 1993–94 to about 45 per cent in 2011–12. Correspondingly the share of employment in services swelled to 41 per cent during the same period. These changes in the structure of the economy occurred in the backdrop of declining labour force participation rates, owing to increased levels of school attendance of the young and withdrawal of women from the labour market (Abraham 2013), rising per capita income levels and declining poverty rates. Jobless growth in India could perhaps be better contextualized within these broad contours of structural transformation of the economy in terms of employment and the ensuing changes in the society.

This chapter tries to explore the lack of employment growth from 1993–94 to 2011–12 within the context of structural transformation in the economy and the society at large. The next section provides a brief analytical background for the study and the database. Section 3 decomposes the total employment created during the period on the basis of gender, region and sector. Section 4 attempts to explain the differences in employment creation across sectors. Section 5 provides an analysis of employment diversification, followed by an analysis of whether enough jobs are being created in Sect. 6. Section 7 gives an overview of the more recent trends and finally the summary and conclusions are drawn in Sect. 8.

2 ANALYTICAL BACKGROUND

The demand for employment is derived from the demand for output. Hence employment growth is a function of output growth. Keeping all other factors such as capital and technological change constant or assuming all value addition is on account of labour, output growth would accompany a commensurate scale effect on employment growth. A disjunction between employment growth and output growth could occur due to substitution effect, whereby non-labour factors, mostly capital, substitutes labour in the production process. Such a substitution effect, if stronger than the scale effect, could lead to output growth without employment growth. Depending on the strength of the substitution effect, a wedge between employment growth and output growth can be brought in, which is the primary source of ‘jobless growth’. In the long run, technological change, changes in the organization of production, quality of human and physical capital and better coordination between production and distribu-

tion could lead to a rise in the total factor productivity, whereby output growth could occur without any addition in inputs as well.

Apart from the above channel, in a developing country context, jobless growth can occur as part of the development process through structural transformation. Structural transformation assumes that there exist differences in the output growth across different sectors. Modern sectors are capital intensive and have higher growth and labour productivity, while traditional sectors are labour intensive with low labour productivity. Then, economic transformation would entail expansion of the capital-intensive sectors that would lead to economic growth but with low employment elasticity. Increasing demand for workers in these sectors owing to its expansion would attract surplus labour from low-wage traditional sector but at a rate lower than the output growth of the modern sector, as in the Lewisian two sector models. Thus transformation may in effect imply that employment growth would be lower than output growth in the modern sector. The mobility of workers from traditional sectors may now enhance productivity and wages in the traditional sector as surplus labour is being exhausted. The traditional sector, which functioned under subsistence production modes with targeted income and household labour, may now transform to capitalist production modes. This transformation that includes consolidation of land, mechanization of production and use of wage labour may render substantial family labour redundant, at the same time enhancing labour productivity. With higher wages in the labour market and increasing income, family labour may decline and the household division of labour may become more stringent, with age-specific and gender-specific roles being defined narrowly. This withdrawal of labour in the traditional sector also may be perceived as a fall in employment in the sector, even though labour productivity may increase.

Decline in surplus labour in the traditional sector in turn could occur due to various reasons. Introduction of technological change or capital-intensive production could render some of the fully employed labour as surplus, who in turn may withdraw from the market. Secondly, in the developing country context, where a large share of people live in vulnerable and poor standards of living, participation in the labour market is not governed by the typical individual utility maximizing axiom; rather, their participation is governed by household income augmenting rationale. So, as the level of vulnerability increases, the participation in labour market may increase to acquire a threshold level of income for household survival and vice versa. This in turn would imply that as the economic performance

of the earning members of the household improves, the participation of workers might decline. The decline of such workers in the economy is captured in data as a fall in employment along with rise in output. The economic performance of earning members may be affected by three important aspects, enhanced physical capital intensity, enhanced human capital intensity and declining transaction costs. Capital intensity, both physical and human, may lead to rising labour productivity, and declining transaction costs may lead to more efficient markets. For instance, the development of labour market and credit market, these markets being separable and independent, may lead to lower mobility and search costs for workers, increasing access to better employment in terms of productivity and wages.

Finally, another channel through which jobless growth may become manifest is globalization. With increasing globalization, trade in goods and services; and inputs, comparative advantage in trade could lead to sector-specific specialization of production. Countries that are labour abundant may specialize in labour-intensive production, leading to economic growth with jobs, while capital-abundant countries may specialize in capital-intensive production. Trade in capital goods could also imply that hitherto labour-intensive production technologies may shift to capital-intensive production technologies, thus taking away the employment-augmenting economic growth. If there are sector-specific differences in economic growth, then the aggregate relation between employment growth and output growth would depend on the nature of factor intensity as such. In this case it is possible to have jobless growth if the capital-intensive sectors grow faster than the labour-intensive sectors.

This chapter explores the question of jobless growth in India in the earlier analytical context of growth and structural transformation. The structure of employment and its relation with economic growth are very well known as has been described in the introduction. In this chapter instead of analysing the structure per se, we analyse the incremental changes in the structure of employment.

The analysis has been carried out from 1993–94 to 2011–12 and sub-periods therein. The choice of the period is based on the availability of employment data from the National Sample Survey data on Employment-Unemployment. The sectoral share of workers of the respective National Sample Survey (NSS) rounds was utilized to arrive at the number of workers in each sector after projecting inter-censal population figures from the Census of India. National Industrial Classification of 2004 was

used for concordance across the NSS rounds.¹ For output, we have used the gross value added (GVA) figures at 2004–05 constant prices from the India KLEMS database (capital (K), labour (L), energy (E), material (M) and services (S) research project) version 2016.² We have used the concordance tables of KLEMS database to achieve uniformity across sectors for output and employment.

3 EMPLOYMENT CREATION AND SECTORAL COMPOSITION IN INDIA

Table 18.1 provides a decomposition of the total change in employment from 1993–94 to 2011–12 in India in terms of period, gender and region. The net addition in employment during the period was 102 million workers, of which about 50 per cent of the addition, 48.4 million, was from 1999–2000 to 2004–05. Of the net addition in employment, more than 92 per cent was for the males, about 9.6 per cent for the urban females, while for the rural females the employment declined by nearly 2 per cent during the period. Thus, it can be seen that predominantly the new employment created in the economy is male centric. Female employment creation had been quite low in the urban areas, while in the rural areas, the employment generation declined dramatically after 2004–05, falling off to negative figures, implying there is a net loss of female employment in the rural areas. The dramatic rise in employment for both males and females from 1999–2000 to 2004–05 has been due to the added worker effect on account of the agrarian crisis in the economy (Abraham 2009). The added worker effect is the addition in labour time to maintain a minimum threshold level of income, as the real wages fall. For households this may manifest as additional members of the households now entering the labour market, with a fall in returns to labour. The general trend otherwise is that there is a shrinkage of new employment opportunities for rural women, relatively less opportunities for urban women, while most of the new jobs are garnered by

¹The National Industrial Classification (NIC) broadly follows the International Standards of Industrial Classification (ISIC). The NIC is revised periodically to accommodate changes in the industrial structure of India. In order to make several rounds of industrial data comparable, the data are matched across years using a concordance table that identifies each comparable industry code across years. For this chapter NIC revision 2004 is used.

²India KLEMS database developed under the productivity measurement project of the Reserve Bank of India (RBI) provides data on capital (K), labour (L), energy (E), materials (M) and services (S) and is available on the Reserve Bank of India (RBI) website.

Table 18.1 Number of workers, their net change and sector-wise contribution to change

<i>Total number of workers (in million)</i>					
	<i>1993–94</i>	<i>1999–2000</i>	<i>2004–05</i>	<i>2009–10</i>	<i>2011–12</i>
Total	330.3	364.3	412.7	428.8	432.3
RM	180.6	194.3	212.3	226.0	230.2
RF	73.7	80.7	90.9	80.8	71.8
UM	62.7	74.1	89.2	101.3	107.3
UF	13.3	15.2	20.2	20.8	23.1
<i>Net change in employment (in million)</i>					
	<i>1993–99</i>	<i>1999–2004</i>	<i>2004–09</i>	<i>2009–11</i>	<i>1993–2011–12</i>
Total	34.0	48.4	16.2	3.5	102.0
RM	13.7	18.1	13.7	4.2	49.6
RF	7.0	10.1	–10.1	–9.0	–1.9
UM	11.4	15.1	12.1	5.9	44.6
UF	2.0	5.0	0.5	2.3	9.8
<i>Average annual change (in million)</i>					
Total	5.7	9.7	3.2	1.7	5.7
RM	2.3	3.6	2.7	2.1	2.8
RF	1.2	2.0	–2.0	–4.5	–0.1
UM	1.9	3.0	2.4	3.0	2.5
UF	0.3	1.0	0.1	1.2	0.5
<i>Contribution to net change in employment (%)</i>					
Total	33.34	47.38	15.86	3.42	100.00
RM	13.40	17.69	13.38	4.12	48.60
RF	6.86	9.93	–9.88	–8.81	–1.89
UM	11.15	14.84	11.86	5.81	43.66
UF	1.93	4.91	0.49	2.30	9.63

Source: Calculated from NSSO data using Census interpolations of sector-gender-specific populations. For all the tables in the text unless otherwise mentioned, this applies

Note: *RM* rural male, *RF* rural female, *UM* urban male, *UF* urban female

males, both rural and urban. The question as to why fewer employment opportunities are opening up for women needs to be taken up in conjunction with the fact that the labour force participation itself is declining for women, in the rural areas, and stagnant at very low levels for the urban areas. It has been argued elsewhere that the declining participation of women is probably centred on the gender norms within the Indian society (Abraham 2013). Women's participation has been declining in the rural areas, at least since 1993–94. The decline is associated with higher levels of

income and education. The decline is higher among married women and in households where the main source of livelihood has shifted to non-farm sources. It is probably the patriarchal norms existing within the society that necessitate women to withdraw from non-conventional forms of employment. The norms also may add status to the males by confining women within households to engage in domestic activities. However, such norms are costly and can be only afforded by the relatively richer classes. Now, with rising income levels, these norms may percolate and be embraced by emerging classes as well, as part of their acceptance and assertion to the richer classes.

A breakup of the net employment created from 1993–94 to 2011–12 shows that nearly 90 per cent of all net addition has been in the service sector. About 16 per cent of net addition was in the secondary sector, while there was a net decline in the agriculture and allied sectors by 5 per cent. Of the net addition in employment, 47 per cent of the total employment generated was from 1999–2000 to 2004–05—bulk of which was in the service sector. Within the 89.5 per cent contribution of services to employment change, 40.3 per cent points was that of rural males and 34 from urban males. Of the net decline in employment in the agriculture sector, rural females declined by –8.8 per cent of the total employment generated, and urban females by –0.6 per cent. At the same time male employment increased by 3.6 per cent in rural areas and by 0.5 per cent in urban areas. Two important observations can be made here: one is that most of the new employment generated was male and service oriented and the other is that most of the disappearing employment was female and agriculture oriented (Table 18.2).

4 NET GAINERS AND LOSERS IN EMPLOYMENT

Now we attempt to identify sectors that contribute to employment generation versus those that contribute to employment destruction. The industrial sectors are classified into four groups based on the sub-sector performance in terms of employment generation. Sub-sectors are classified into the following: those that had a net loss of employment (percentage contribution of the sub-sector to total employment generation from 1993–94 to 2011–12 is negative), those that had stagnancy in employment generation (percentage contribution of the sub-sector to total employment generation from 1993–94 to 2011–12 is less than 1 per cent), those that had marginal employment generation (percentage contribution of the sub-sector to total employment generation from 1993–94 to 2011–12 is 1–5 per cent) and those that had substantial employment generation (percentage contribution of the sub-sector to total employment generation from 1993–94 to 2011–12 is above 5 per cent).

Table 18.2 Sectoral and regional contribution to net change in employment

<i>Total</i>	<i>1993–99</i>	<i>1999–04</i>	<i>2004–09</i>	<i>2009–11</i>	<i>From 1993–94 to 2011–12</i>
<i>Percentage contribution to total employment change</i>					
Agriculture, forestry and fishing	9.1	-3.4	-10.8	-0.3	-5.3
Secondary sector	3.9	5.7	-1.5	7.7	15.8
Services	20.3	45.0	28.2	-4.0	89.5
Total	33.3	47.4	15.9	3.4	100.0
<i>Rural male</i>					
Agriculture, forestry and fishing	4.8	3.8	-1.3	-3.7	3.6
Secondary sector	1.5	1.1	-0.3	2.4	4.7
Services	7.1	12.8	15.0	5.5	40.3
Total	13.4	17.7	13.4	4.1	48.6
<i>Rural female</i>					
Agriculture, forestry and fishing	5.5	-7.1	-9.8	2.7	-8.8
Secondary sector	0.4	1.0	-1.4	0.2	0.2
Services	1.0	16.0	1.4	-11.7	6.7
Total	6.9	9.9	-9.9	-8.8	-1.9
<i>Urban male</i>					
Agriculture, forestry and fishing	-0.8	0.8	0.4	0.1	0.5
Secondary sector	1.6	2.8	0.6	4.1	9.0
Services	10.3	11.3	10.9	1.7	34.1
Total	11.2	14.8	11.9	5.8	43.7
<i>Urban female</i>					
Agriculture, forestry and fishing	-0.4	-0.9	-0.1	0.7	-0.6
Secondary sector	0.3	0.8	-0.3	1.1	1.9
Services	1.9	5.0	0.9	0.5	8.3
Total	1.9	4.9	0.5	2.3	9.6

Source: Calculated from NSSO data using Census interpolations of sector-gender specific populations. For all the tables in the text unless otherwise mentioned, this applies

After classifying these into four categories, it can be noted that among the sectors that contributed to a decline in employment generation (negative), nearly 96 per cent of the total employment in 2011–12 and 78 per cent of this fall in employment from 1993–94 to 2011–12 were within the primary sector (Table 18.3). The sectors that experienced stagnant employment generation were entirely within the secondary sector.

Table 18.3 Classification of sectors by industry and employment contribution

	<i>Level in 2011–12</i>			<i>Change from 1993–94 to 2011–12</i>		
	<i>Primary</i>	<i>Secondary</i>	<i>Service</i>	<i>Primary</i>	<i>Secondary</i>	<i>Service</i>
Negative	96.0	0.0	4.0	78.1	0.0	21.9
Stagnant	0.0	100.0	0.0	0.0	100.0	0.0
Marginal	0.0	68.1	31.9	0.0	53.6	46.4
High	0.0	0.0	100.0	0.0	0.0	100.0

Source: Calculated from NSSO data using Census interpolations of sector-gender specific populations. For all the tables in the text unless otherwise mentioned, this applies

Among the sectors that contributed marginally towards increase in employment more than 68 per cent of the employment was in the secondary sector and the remaining in the service sector, while for the increment in employment, 54 per cent was in the secondary sector. In the high employment generating sector, the entire levels and change were within the service sector. Thus, it can be noted that there exists a functional link between the two types of classifications based on economic activity and employment generation. Negative employment generation was predominantly in the primary sector, while the secondary sector contributed marginally and the highest employment contribution was by the service sector.

From Fig. 18.1, it can be noted that in general the increment in output and increment in employment go in the same direction. Sectors that contributed highly towards employment creation also contributed highly towards incremental output and this gradation is followed for all the four categories of sectors. But, in almost all sectors the contribution to output increment had been higher than that for employment growth, except for the high employment sectors, where employment increment was much higher than output. Even in the two sectors that recorded a fall in employment, an increase in output was recorded, even though it was smaller in comparison to other sectors. Thus, in almost all sectors we notice a widening gap between increment in output and employment increment. Low employment growth, nevertheless, does not imply a stagnant labour market; rather, underlying the low employment growth is a dynamic picture of job creation amidst job destruction and job reallocation across sectors.

The 'jobless growth' phenomenon at the aggregate level may be manifested primarily due to three reasons as described in the analytical back-

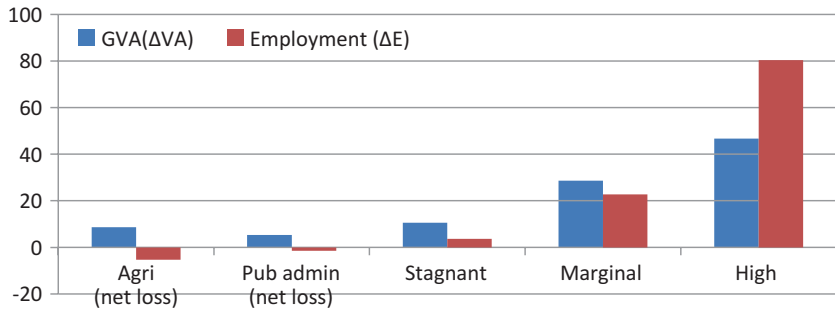


Fig. 18.1 Contribution to change in employment and output during 1993–94 to 2011–12. Source: Same as Table 18.1

ground—increasing capital intensity within sectors, growth differences between sectors and decline in the participation of surplus labour in traditionally labour-absorbing sectors. From the above exploration, one could observe that all the three factors mentioned above may be in operation in the Indian scenario. In general, the output increment had been higher than employment increment, suggesting increasing capital intensity, while the decline in employment in agriculture and rise in employment in service sector suggested relocation of labour from low-wage sectors to higher wage service sectors. There is also some evidence to show sector-specific output growth, leading to lower employment creation within these sectors. To understand this dynamic labour market it may be necessary to look into each of the five categories mentioned above in detail. These patterns provide some insights into the argument of jobless growth.

Only two sub-sectors recorded a net decline in employment generation from 1993–94 to 2011–12, agriculture, forestry and fishing; and public administration, defence & compulsory social security (Table 18.4). The net decline in employment in agriculture sector was –5.3 of the total employment generated, while for the public administration it was by –1.5 per cent. The decline in agriculture sector employment is noticeable from 1999–2000 and continues throughout the period. The largest component of the drop is owing to rural females' withdrawal from 1999–2000 to 2010–11. Yet, the sector had made a contribution of 8.66 per cent of the total change in gross value added from 1993–94 to 2011–12. Compared to other sectors (discussed later) the contribution of agriculture sector to GVA increment is small, but this 8.6 per cent contribution has been achieved along with a drop in the agriculture employment by

Table 18.4 Sectors with net loss in employment

<i>Agriculture, forestry and fishing</i>	% Contribution to total change from 1993–94 to 2011–12				
	1993–99	1999–04	2004–09	2009–11	1993–94 to 2011–12
1. Employment					
1a. Total (ΔE)	9.1	-3.4	-10.8	-0.3	-5.3
1b. Rural male	4.8	3.8	-1.3	-3.7	3.6
1c. Rural female	5.5	-7.1	-9.8	2.7	-8.8
1d. Urban male	-0.8	0.8	0.4	0.1	0.5
1e. Urban female	-0.4	-0.9	-0.1	0.7	-0.6
2. Gross value added (ΔVA)	2.43	1.15	2.57	2.50	8.66
3. $\Delta(VA/E)\%$	15.6	9.9	23.4	14.2	79.0

Source: Same as Table 18.1 and estimates from KLEMS

-5.3 per cent. The fall in employment growth in the sector is thus accompanied by a rise in value added per worker. For the entire period, the value added per worker increased by 79 per cent. In effect, the large drop in employment in the sector has been associated with a productivity rise. Fall in employment along with productivity rise in a sector can occur under two conditions, one is technological change in the long run and the other is reduction of surplus labour with low marginal productivity. Technological change or increasing capital intensity also can lead to displacement of labour along with productivity increase. While there is not much evidence at hand to claim technological change in the agriculture sector during that period, falling employment of women along with increasing labour productivity may be interpreted as a reduction of surplus family labour with the ongoing transformation of agriculture sector.

As shown in Table 18.5, the share of total population working in agriculture sector in rural areas was 30 per cent in 1993–94. While about 22 per cent was in other activities, about 19 per cent was pursuing education and another 19 per cent engaged in domestic activities. The share of population engaged in agriculture declined to 23 per cent by 2011–12, a drop of nearly 7 per cent points, while the share of population engaged in non-agriculture sector employment increased from 9 per cent to 13 per cent. The population engaged in education increased to 28 per cent and that in domestic activities increased from 19 per cent to 21 per cent.

However, the shift to non-agriculture sector employment is mainly in case of males, which increased from 14 per cent to 22 per cent; correspondingly, the share of agricultural employment declined from 40 to

Table 18.5 Activity status by gender in rural India

Period	Sex	Usual principal activity (percentage share)						Total
		Agriculture	Non-agriculture	Unemployed	Education	Domestic activities	Others	
1993–94	Male	39.64	14.15	1.07	23.24	0.49	21.42	100
	Female	19.79	3.55	0.33	15.05	38.17	23.11	100
	Total	29.99	9	0.71	19.26	18.8	22.24	100
2011–12	Male	31.94	21.56	1.15	30.44	0.42	14.49	100
	Female	13.16	4.42	0.53	25.11	42.17	14.61	100
	Total	22.76	13.18	0.85	27.83	20.83	14.55	100

Source: Calculated from NSSO data using Census interpolations of sector-gender specific populations. For all the tables in the text unless otherwise mentioned, this applies

32 per cent. While for females though the agricultural employment declined from 20 per cent to 13 per cent, the corresponding rise was in two activities, one education and the other domestic activities. Thus it can be noted that while there is a shift away from agricultural sector both for males and females, the entry to non-agricultural employment in the rural areas is gender specific, with the employment in non-agricultural sector limited to males and females moving away from the labour market and entering into either education or domestic activities.

Turning to the next sector, the decline in employment in the public administration sector is a short-term but pervasive phenomenon which affects all categories of employment that occurred from 2009–10 to 2011–12 (Table 18.6). The drop in employment during this period was larger than the gains in employment for the sector from 1993 to 2009. It may be noted that gains in employment before 2009–10 were only marginal such that their contribution remained in most cases less than 1 per cent. However, the fall in employment generation did not have a similar effect on GVA increment, which contributed 5.36 per cent to overall GVA change. Though the contribution of this sector's GVA change to total GVA change had been very small at 0.29 per cent for 2009–11, in fact the smallest in all periods, the fact that employment drastically declined led to a large rise in labour productivity in the sector. Though a clearer reasoning for this fall is warranted it may be conjectured that this fall may be in part explained by the shrinking space of the government. The role of the government in production, services and governance had been gradually reducing. The space, in turn, is being filled by private agencies following privatization and liberalization. The net loss in employment in this sector is probably associated with this diversion of activities to the private sector.

Table 18.6 Sectors with net loss in employment

<i>Public admin and defence, compulsory social security</i>	% Contribution to total change from 1993–94 to 2011–12				
	1993–99	1999–04	2004–09	2009–11	1993–94 to 2011–12
1. Employment					
1a. Total (ΔE)	0.5	2.4	1.2	-5.6	-1.5
1b. Rural male	0.0	-0.2	0.5	-1.2	-0.8
1c. Rural female	0.1	0.9	-0.1	-0.9	0.0
1d. Urban male	0.4	0.9	0.7	-2.6	-0.6
1e. Urban female	-0.1	0.9	0.0	-0.9	-0.1
2. Gross value added (ΔVA)	1.54	0.65	2.88	0.29	5.36
3. $(VA/E)\%$	53.6	-6.5	47.0	75.1	269.7

Source: Same as Table 18.1 and estimates from KLEMS

The sub-sectors that contributed to less than 1 per cent of the total employment generation from 1993–94 to 2011–12 are considered as stagnant sub-sectors (Table 18.7). The sub-sectors that experienced a stagnation in employment from 1993–94 to 2011–12 were the following: mining and quarrying; wood and of wood and cork; pulp, paper and paper products and printing and publishing; coke, refined petroleum and nuclear fuel; chemicals and chemical products; rubber and plastics machinery, not elsewhere classified (n.e.c.); transport equipment; electricity gas and water supply. As shown, almost the entire set of sub-sectors comprises manufacturing industries, barring electricity, gas and water supply. Table 18.4 shows the sum of all these sectors for each of the variables expressed later. These nine sub-sectors together contributed to less than 4 per cent of the total employment generated from 1993–94 to 2011–12. Moreover, most of this increment in employment occurred from 1993 to 2004, while after 2004 there was a decline in employment across most categories of employment. However, corresponding to the employment decline after 2004, the contribution of these sub-sectors to GVA had been high—at about 7.5 per cent of the total increment in output generated. The widening gap between employment generation and output generation has been the highest within these sectors. Correspondingly, the productivity increment in this sector has been high, to the tune of a 151 per cent increase in the entire period. It may be inferred here that these sectors that experienced stagnation in employment growth had attained high output increment probably through changes in production technology, such as increasing capital intensity.

Table 18.7 Sectors with stagnation in employment generation (<1% in Δe from 1993–94 to 2011–12)

<i>Stagnant sectors</i>	<i>% Contribution to total change from 1993–94 to 2011–12</i>				
	1993–99	1999–04	2004–09	2009–11	1993–94 to 2011–12
1. Employment					
1a. Total (ΔE)	1.1	4.1	–0.3	–1.3	3.6
1b. Rural male	0.5	0.7	0.2	–0.1	1.3
1c. Rural female	0.2	1.2	–0.4	–1.0	–0.1
1d. Urban male	0.3	1.3	0.1	0.4	2.2
1e. Urban female	0.1	0.9	–0.2	–0.6	0.2
2. Gross value added (ΔVA)	1.99	2.14	4.56	1.91	10.60
3. $\Delta(VA/E)\%$	30.4	0.7	54.5	23.7	151.0

Source: Same as Table 18.1 and estimates from KLEMS

The performance of the sub-sectors that experienced marginal increment in employment from 1993–94 to 2011–12 is given in Table 18.8. These are sub-sectors whose contribution to the total employment generation from 1993–94 to 2011–12 was between 1 and 5 per cent of the total employment created. The sectors are food and beverages and tobacco; textiles, textile products and leather and footwear; other non-metallic minerals; basic metals and fabricated metal products; electrical and optical equipment; manufacturing n.e.c., recycling; hotels and restaurants; post and telecommunications; financial intermediation; and health and social work. As can be noted, the sectors are a mix of agro-based industries, metal-based industries and services. These sub-sectors together contributed to nearly 23 per cent of all employment generated between 1993–94 and 2011–12. Of this, more than half of the new employment created was for urban males and another quarter of the employment for rural males. The corresponding contribution of these sectors to GVA was nearly 29 per cent. The gap between contribution to output and employment increment had been relatively low at –5.9. However, these sectors experienced a large increase in the value added per worker by 223 per cent from 1993–94 to 2011–12.

The sub-sectors that contributed highest to employment generation from 1993–94 to 2011–12 are the following: construction; trade; transport and storage; business services; education; and other services (Table 18.9). These six sectors together contributed to 80 per cent of all employment generated during the period. It can be seen that all the six

Table 18.8 Sectors with marginal employment generation (1–5% in Δe from 1993–94 to 2011–12)

<i>Sectors contributing marginally</i>	<i>% Contribution to total change from 1993–94 to 2011–12</i>				
	1993–99	1999–04	2004–09	2009–11	1993–94 to 2011–12
1. Employment					
1a. Total (ΔE)	5.4	6.0	-0.1	11.4	22.7
1b. Rural male	1.6	1.4	-0.3	3.0	5.7
1c. Rural female	0.6	0.7	-1.2	0.9	1.0
1d. Urban male	2.4	3.6	1.5	5.2	12.7
1e. Urban female	0.7	0.3	-0.1	2.4	3.3
2. Gross value added (ΔVA)	4.7	4.6	12.8	6.6	28.6
3. $\Delta(VA/E)\%$	48.7	22.0	80.6	-1.5	222.8

Source: Same as Table 18.1 and estimates from KLEMS

Table 18.9 Sectors with high employment generation (>5% in Δe from 1993–94 to 2011–12)

<i>Sectors contributing highly</i>	<i>% Contribution to total change from 1993–94 to 2011–12</i>				
	1993–99	1999–04	2004–09	2009–11	1993–94 to 2011–12
1. Employment					
1a. Total (ΔE)	17.2	38.3	25.8	-0.8	80.4
1b. Rural male	6.4	12.0	14.2	6.2	38.8
1c. Rural female	0.6	14.2	1.6	-10.5	6.0
1d. Urban male	8.7	8.3	9.1	2.8	28.9
1e. Urban female	1.6	3.7	0.8	0.7	6.8
2. Gross value added (ΔVA)	8.67	10.81	18.81	8.45	46.74
3. $\Delta(VA/E)\%$	22.9	-0.9	26.5	16.2	79.1

Source: Same as Table 18.1 and estimates from KLEMS

sectors are service-oriented sectors. Of the total contribution nearly half the employment was garnered by rural males and about 36 per cent by urban males. Thus the bulk of the employment generated was in these six sectors and was taken up by males, both in rural and in urban areas. However, these sectors' contribution to incremental output was only 47 per cent, which meant that there was a net addition in employment in these sectors than increment in output, by 34 per cent. The low addition

in output corresponding to employment creation led to a low increment in the output per worker by only 79 per cent during the entire period.

From the above analysis on net gainers and losers in employment, the following inferences can be made. Most of the net employment increment in India is confined to a narrow band of six service sector industries, accounting for more than 80 per cent. The increment in employment in a few sectors is matched by a net fall in employment in agriculture and government sectors. The increase in employment is largely in the direction in which output is growing, with higher employment increase in sectors that had higher contribution to output growth and vice versa. However, in the case of most of the manufacturing sector and a few industries of the service sector, there is a widening gap between output increment and employment increment, suggesting changes in production technology.

Almost the entire employment increment is garnered by males, both in rural and in urban areas, while women are withdrawing from their principal source of employment, namely agriculture. Even in sectors with high employment increment, women have only marginal presence. The decline in female employment in the agriculture sector, however, does not seem to have a dampening effect on the growth of the sector; rather, the value added per worker seems to have risen with women withdrawing from the sector. Sectors that experienced stagnant employment increment are mostly in the manufacturing sector. In this sector, the stagnation in employment is however, spread across all workers, males and females in all regions.

All sectors experienced a rise in labour productivity during the period. However, the net change in labour productivity in high employment service sector is strikingly similar to that of the agriculture sector where there was a net decline in employment. The highest increment in labour productivity was in sectors that had either stagnation or marginal increase in employment during the period.

The key labour dynamics at work in the economy seems to be the following. Traditional sectors such as agriculture are growing at low rates, but there is considerable change in the composition of labour, women are withdrawing from the sector, while rural males are replacing women. Fast-growing manufacturing sectors are moving to capital-intensive production, displacing labour of all types. Fast-growing service sectors are growing with relatively higher labour intensity than the manufacturing sector, but almost the entire employment opportunities are garnered by males. The patterns of changes in output, employment and productivity seem to suggest a structural transformation under way in the economy.

5 DIVERSIFICATION OF EMPLOYMENT

Having looked at the contribution of sectors to employment increment, it is necessary to look at whether the noted shifts in employment are a movement towards transformation. Employment diversification from low value-adding to high value-adding sectors is a central feature of structural transformation of an economy. In order to explore diversification of employment in the economy, coefficient of variation (CV) across two-digit industrial classification of employment levels is attempted for all years in analysis, which is reported in Table 18.10. Firstly, it may be noted that the CV is higher than one for all years for all employment (total). This suggests that there is high concentration of employment in a few sectors, the most important, as is well known, being the agriculture sector. But it can be seen that the CV had been declining consistently throughout the period, from 3.1 in 1993–94 to 2.3 in 2011–12, which implies a gradual diversification of employment to other sectors. Secondly, comparing between rural and urban areas, the CV for rural males had been consistently higher than urban males and for rural females higher than urban females. This implies that the concentration of employment is higher in rural areas as compared to urban areas. Thirdly, it can be noted that for rural males there is a gradual diversification of employment, unlike urban males, and for rural females too there is a gradual diversification of employment, unlike urban females. Thus, in summary, it can be stated that though rural areas are conventionally highly concentrated in industrial structure of employment, there is a trend towards diversification. Further, though in urban areas the industrial structure is more diversified, the structure seems more or less stable.

What is the direction of this diversification noted above? Is it path dependent, implying that more employment is being generated in the sec-

Table 18.10 Coefficient of variation of employment across industries

	1993–94	1999–2000	2004–05	2009–10	2011–12
Total	3.1	3.0	2.6	2.4	2.3
RM	3.7	3.6	3.4	3.2	3.0
RF	4.3	4.3	3.4	3.2	3.8
UM	1.3	1.4	1.2	1.3	1.2
UF	1.4	1.3	1.2	1.3	1.4

Source: The figures in the table are calculations based on NSSO data, see Table 18.1 for further details

tors that already employ a large number of workers or is employment being generated in other sectors than the conventionally labour-absorbing sector? To answer this question a test for path dependence, akin to the beta convergence test in the growth literature, is applied here. The dependent variable here is the change in employment during two periods, and the independent variable is the level of employment in the initial year. A positive and significant sign would imply that there is divergence, that is, if the initial size of employment in a sector is small then there is lesser employment growth in the sector. Conversely, a negative and significant coefficient represents convergence, that is, if the initial size of employment in a sector is small then there is greater employment growth in the sector.

For the overall period, from 1993–94 to 2011–12, the convergence coefficient is negative but not significant, implying that for all employment there is no evidence of convergence or divergence (Table 18.11). However, period from 1993–94 to 1999–2000 and from 2004–05 to 2009–10 show significant signs, divergence in the former and for the latter, convergence. As we disaggregate the data for males and females across sectors the results are worth noting (Table 18.12).

For rural males, the overall period shows a positive and significant coefficient, implying that more of rural males are entering into sectors where there is already a large presence of rural males, in other words, displaying path dependence. Yet we see that from 2004–05 to 2009–10 the sign is insignificant and by 2009–11 there is a trend towards convergence, that is, those sectors with low levels of employment are generating more employment. So, in the case of rural males it may be safe to argue that initially much of the employment generated till 2004–05 was attracted to the main source of employment in rural areas, but beyond this period, there is a clear movement towards non-farm sectors of employment. This is corroborated from Table 18.2 as well, where in the two latter periods there

Table 18.11 Convergence test on employment growth—overall

<i>Level of employment</i>	<i>Change in employment</i>	<i>All employment</i>	<i>R-squared</i>
1993–94	1993–94 to 2011–12	–0.03	0.0251
1993–94	1993–94 to 1999–2000	0.05***	0.5424
1999–2000	1999–04	–0.01	0.024
2004–05	2004–09	–0.04**	0.1657
2009–10	2009–11	–0.01	0.0262

Source: The figures in the table are calculations based on NSSO data, see Table 18.1 for further details

Table 18.12 Convergence test on employment growth: sector wise

<i>Level of employment</i>	<i>Change in total employment</i>	<i>RM</i>	<i>RF</i>	<i>UM</i>	<i>UF</i>	<i>R-squared</i>
1993–94	1993–94 to 2011–12	4.81***	-10.44***	-1.86**	5.99**	0.5875
1993–94	1993–94 to 1999–2000	0.62**	-1.16**	0.2	-0.52	0.8466
1999–2000	1999–2000 to 2004–05	1.82***	-3.76***	-0.37***	1.06**	0.9484
2004–05	2004–05 to 2009–10	12.1	-28.5	-4.91	22.92	0.4531
2009–10	2009–10 to 2010–11	-6.25**	17.33**	4.58	-22.69	0.386

Source: The figures in the table are calculations based on NSSO data, see Table 18.1 for further details

Note: *** denotes significance at 1 per cent level and ** denotes significance at 5 per cent level

was a negative contribution of rural males in the agriculture sector to overall employment generation.

On the other hand, for rural females there is clearly a trend of divergence, meaning the growth of females is in sectors that had conventionally a low presence of women, and women are moving away from the conventional sectors. This is also consistent till 2009–10 beyond which the sign changes. Now, this does not imply that there is a rise in employment in the non-agricultural sector. In Table 18.2, it can be noted that the overall contribution of rural women to total employment generated is negative and this is mainly because of the decline in women's employment generation in the agriculture sector. Thus, reading together, we could conclude that for rural women, the convergence sign implies that the decline in employment growth specifically in the agricultural sector continues to pull down overall employment growth of women, but in the other sectors, mainly service sector, growth continues.

For urban males the overall trend is that of convergence. Though from Table 18.2 it looks as if there is greater addition of workers to the same sector, namely services, it is because of the level of aggregation in service data. Later we can see that there is employment generation in newer service sub-sectors for urban males. For urban females the trend is that of divergence, sub-period analysis is not consistent throughout. Here again we notice a shift away from agriculture to service sector employment as such and women moving into newer sectors.

From earlier discussions the following inferences are worth noting. Rural employment generation initially was in the agriculture sector for rural males, but it is moving away to other sectors. For females, agricultural employment generation is declining, though the service sector employment generation continues. For urban males there is consolidation of employment generation in the service sector while for urban females there is divergence of employment generation in the service sector. These changes in the paths of employment generation are suggestive of structural transformation in the labour market, that is, workers are moving away from agriculture to other activities, for rural males the movement is into non-farm activities, urban males and females into services, while for rural females it is largely towards 'exiting' the labour market.

6 ARE ENOUGH JOBS BEING CREATED?

The analysis tries to show that there is a structural transformation in employment marked by diversification of employment from low value-adding to high value-adding sectors. However, the moot question remains as to whether enough jobs are being created in the process of transformation. For this we estimate a simple point—employment elasticity of output across periods for all sub-sectors and for sub-sector totals. It can be seen from Table 18.13 that employment growth is in general inelastic, as low as 0.13 for the entire period, and there is a consistent fall in employment elasticity, from 0.42 to 0.05, from 1999–2000 to 2011–12. Thus it is observable that output growth is unable to generate employment in commensurate measures. Further, it can be seen that in the negative employment sectors, output growth leads to a fall in employment, while in the stagnant and marginal sectors output growth of 1 per cent would lead to an employment increase by about 0.13–0.15 per cent. However, even in high employment generating sectors output growth of 1 per cent could generate only about 0.40 per cent of employment growth. This clearly indicates that the employment growth in the high employment generating sectors does not compensate for the employment loss in the negative employment generating sectors. In other words, the transformation in the economy is such that the sectors with high output share and growth that are capable of high employment generation are unable to generate commensurate to the employment destroyed in the sectors that are shedding labour. It also implies that the marginal and stagnant sectors that are largely capital intensive, owing to their manufacturing nature, may be enhancing growth through capital-intensive technology.

Table 18.13 Employment elasticity of output

<i>Sectors</i>	<i>1993–94 to 1999–2000</i>	<i>1999–2000 to 2004–05</i>	<i>2004–05 to 2009–10</i>	<i>2009–10 to 2011–12</i>	<i>1993–94 to 2011–12</i>
Negative employment	0.16	–0.04	–0.16	–0.26	–0.03
Stagnant employment	0.22	0.97	–0.03	–0.53	0.13
Marginal employment	0.21	0.37	0.00	1.08	0.15
High employment	0.47	1.03	0.40	–0.04	0.41
All	0.22	0.42	0.08	0.05	0.13

Source: Same as Table 18.1 and estimates from KLEMS

7 THE EMPLOYMENT TRENDS FROM 2013–14 TO 2015–16

There is not much information since the last NSS Employment-Unemployment survey that was conducted in 2011–12. So we used the Employment-Unemployment survey by the Labour Bureau (LB-EUS) to conduct a study on employment growth during this period (Abraham 2017). As per the LB-EUS surveys, estimates based on the Usual Principal Status (UPS) criteria for the age group 15 and above, total employment in India shrunk by about 0.4 per cent per annum, from 2013–14 to 2015–16 (Table 18.14). This corresponds to an estimated reduction in employment for about 3.74 million persons from 2013–14 to 2015–16. This is unlike any years from 1993–94 to 2011–12, wherein though employment generation had slowed down there was a positive growth. The only segment that noted a positive growth in employment was rural males. Rural females continued to experience a decline, as had been the case since 2004–05. However, surprisingly, there was a fall in employment for both urban males and females. It can be seen that in rural areas the patterns that were followed previously seem to be continuing. But the brunt of the decline in employment was faced in the urban sector.

The decline in employment covered almost all sectors as well. Primary sector employment declined in both rural and urban areas. But the major collapse in employment in urban areas was on account of the shrinking of secondary sector employment. Even in the service sector the urban sector had very limited employment generation. Thus in general it can be stated

Table 18.14 Employment levels and growth based on UPS, 15 years and above

		2013–14			2015–16		
		Male	Female	Total	Male	Female	Total
Total employment (in million)	R	214.6	78.5	306.6	228.2	73.0	304.8
	U	111.1	24.2	136.5	109.6	22.5	133.0
	T	325.9	104.3	446.4	340.4	98.5	442.6
Change (in million)	R				13.64	-5.54	-1.80
	U				-1.53	-1.71	-3.50
	T#				14.46	-5.76	-3.74
	T*				12.11	-7.25	-5.3
					CAGR (%)		
Growth rate percent per annum (%)	R				3.1	-3.6	-0.3
	U				-0.7	-3.6	-1.3
	T#				2.2	-2.8	-0.4

FEMA: FEMALE

T# is the total figures that are estimated numbers based on total WPR*total population projections. T* is the actual total from the estimated change in employment based on the respective segment's WPR projected population. This discrepancy in the total figures estimated and the actual arises perhaps out of the addition of a new category in gender, transgenders, whose WPR is estimated separately for 2015–16. But we do not have a similar estimate for transgenders in 2013–14; hence, separating this category for 2013–14 is not possible. The estimated WPR for 2013–14 may be biased to the extent that transgenders have been included in the 2013–14 data, but since it is not clear as to which category of sex they were included in 2013–14, it may not be possible to say what the direction of the bias is

Source: Abraham (2017)

Note: R rural, U urban, T total, UPS usual principal status, CAGR compound annual growth rate in percentages

that the period from 2013–14 to 2015–16 was marked by employment stagnation. The fact that productive non-agricultural sectors of the economy, such as manufacturing, have shown negative growth in employment does not gel with the structural change argument. The absolute fall in employment in sectors such as construction which acted as an employer of last resort for the ones displaced from agriculture brings out a dismal picture of employment creation in India. What we are experiencing currently in the Indian labour market, especially in non-agricultural sectors, cannot be viewed as part of a long-term structural change.

Such a fall in employment in the recent period has been reported by three other data sources as well, namely the Quick Employment Surveys (QES) of the Labour Bureau, reports based on the KLEMS database and reports based on employment surveys of Centre for Monitoring Indian

Economy (CMIE). The QES surveys from January 2014 to March 2017 show a sharp slowdown in the growth of employment, along with fall in output growth (Abraham 2017). The KLEMS India database shows that about 1.2 million jobs were lost between 2014 and 2016.³ The CMIE-BSE database on unemployment rate⁴ shows that between January 2016 and July 2017 (Fig. 18.2), the unemployment rates had declined from 8 per cent to nearly 4 per cent. However, the rate picked up to 6 per cent by July 2018 (Table 18.15).

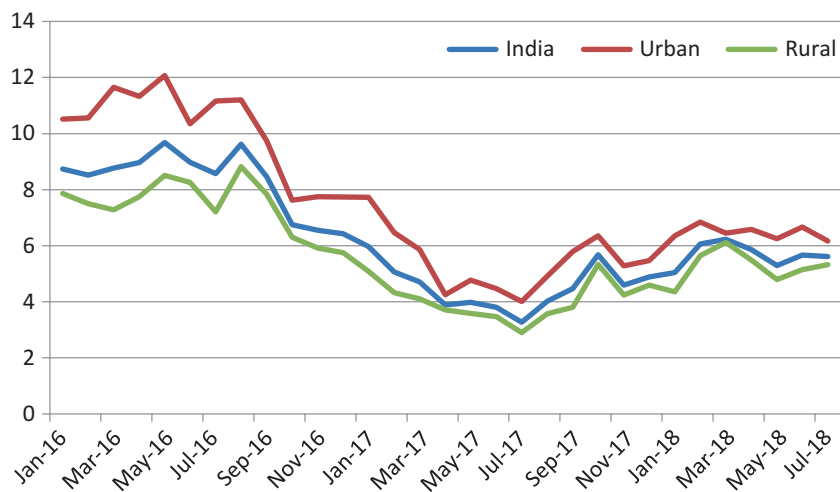


Fig. 18.2 Monthly estimates of unemployment rate in India. Source: CMIE-BSE (Centre for Monitoring Indian Economy-Bombay Stock Exchange) database on Unemployment <http://cmieindices.bseindia.com/reports.aspx>, Accessed on August 10, 2018

³ <https://www.financialexpress.com/opinion/no-jobs-till-economy-ok/1119263/>. Accessed on 25 August 2018.

⁴ CMIE-BSE database defines unemployment rate as share of unemployed who are willing to work and are actively looking for a job; it is expressed as a percentage of the labour force. By definition these rates cover 15 years and above and have a reference period of 100 days prior to the day of survey.

Table 18.15 Change in employment from 2013–14 to 2015–16 (in 100,000s)

	<i>Rural</i>	<i>Urban</i>	<i>Total#</i>
1. Primary	-81	-8.2	-52.9
2. Secondary total	5.6	-33.7	-30.7
3. Services total	63.5	2.9	37.4
Others (residual)	-6.1	4	8.9
Total	-18	-35	-37.4

Source: Abraham (2017)

Note: #—same as in Table 18.14

8 CONCLUSION

India had been experiencing ‘jobless growth’ arguably since early 1990s. Concomitantly a service sector-oriented structural transformation of the economy and society is under way. This chapter has tried to contextualize jobless growth within the narrative of structural transformation in the economy. Jobless growth in the developing country is a dynamic process of job creation, destruction and relocation, rather than a mere stagnation of employment growth. The substitution effect owing to capital intensity, inter-sectoral growth differences owing to structural transformation and withdrawal of surplus labour owing to transformation are the underlying factors that manifest finally as jobless growth in India.

Analysis shows that from 1993–94 to 2011–12, more than 92 per cent of the employment generates were for males, about 9.6 per cent for urban females, while for rural females the employment declined by nearly 2 per cent. The general trend is that most of the new employment generated is male and service oriented, while most of the disappearing employment is female and agriculture oriented. The decline in female employment in the agricultural sector, however, does not seem to have a dampening effect on the growth of the sector; rather, the value added per worker seems to have risen with women withdrawing from the sector. Negative employment generation was predominantly in the primary sector, while secondary sector contributed marginally, and the highest employment contribution was by the service sector.

In most sectors the contribution to output increment had been higher than that for employment growth, suggesting increasing capital intensity, while the decline in employment in agriculture and rise in employment in service sector suggested relocation of labour from low-wage sectors to higher wage service sectors. There is also some evidence to show sector-

specific output growth, leading to lower employment creation within these sectors.

Within the agriculture sector falling employment of women along with increasing labour productivity may be interpreted as a reduction of surplus family labour, with the ongoing transformation of rural economy, wherein males are moving away from farm to non-farm employment while females are moving away from the labour market and entering domestic activities. The secondary sector had one of the highest productivity increments but with stagnation in employment growth, probably attained via increasing capital intensity. A narrow band of five service sectors contributed to 80 per cent of all employment generated during the period. These patterns of changes in output, employment and productivity seem to suggest a structural transformation under way in the economy.

In terms of diversification, rural employment generation initially was in the agriculture sector for rural males, but it is moving away to other sectors. For females, agricultural employment generation is declining, though the service sector employment generation continues. For urban males, there is consolidation of employment generation in the service sector, while for the urban females there is divergence of employment generation into the service sector. These changes in the paths of employment generation are also suggestive of structural transformation in employment.

However, the rate of transformation in the economy is weak such that the even the existing high rates of output growth cannot generate proportionate employment growth. The growing sectors that are capable of high employment generation are unable to generate commensurate jobs to those that are lost in the sectors shedding labour. It also implies that the marginal and stagnant sectors that are largely capital intensive, owing to their manufacturing nature, may be enhancing growth through capital-intensive technology.

Yet the recent trends from 2013–14 to 2015–16 portend a major collapse in the employment scenario, especially in urban areas. The trends in this period are in contrast to the earlier long-term phase of jobs created and destroyed at the same time as part of the transformation. This current phase is that of employment stagnation, not jobless growth but a scale effect—lack of output growth curtailing employment growth. Further, this collapse in employment creation is corroborated by multiple data sources as well.

Acknowledgements I acknowledge with thanks the research assistance provided by Chacko Babu for this chapter. All errors are mine.

APPENDIX

Table 18.16 Employment elasticity of output

	1993-94 to 1999-2000	1999-2000 to 2004-05	2004-05 to 2009-10	2009-10 to 2011-12	1993-94 to 2011-12
Negative employment					
Agriculture, hunting, forestry and fishing	0.22	-0.2	-0.31	-0.01	-0.04
Public admin & defence; social security	0.08	1.51	0.16	-10.63	-0.07
Sub-total	0.16	-0.04	-0.16	-0.26	-0.03
Stagnant employment					
Mining and quarrying	-0.3	2.36	0.44	-5.01	0.03
Wood and products of wood	10	-0.48	-0.25	-2.16	1.09
Pulp, paper, printing and publishing	1.2	0.76	0.43	-0.94	0.26
Coke, petroleum products and nuclear fuel	-2.18	-0.13	-0.26	-0.2	-0.01
Chemicals and chemical products	0.05	0	-0.12	0.72	0.04
Rubber and plastic products	0.53	-2.16	0.03	6.07	0.22
Machinery, n.e.c.	-0.37	1.41	0.21	-0.13	0.06
Transport equipment	0.07	2.01	0.36	-0.12	0.31
Electricity, gas and water supply	-0.28	3.92	-0.43	-0.71	0.11
Sub-total	0.22	0.97	-0.03	-0.53	0.13
Marginal employment					
Food products, beverages and tobacco	0.18	-0.55	-0.38	1.5	0.08
Textiles, products, leather and footwear	0.19	0.02	-0.23	11.07	0.16
Other non-metallic mineral products	0.13	2.54	0.01	0.83	0.17
Basic metals and fabricated metal products	0.4	0.78	0	0.21	0.21
Electrical and optical equipment	0.42	-0.08	0.31	16.27	0.29
Manufacturing, n.e.c.; recycling	-0.02	1.44	0.13	6.92	0.36
Hotels and restaurants	0.41	0.61	-1.79	72.16	0.37
Post and telecommunication	0.5	0.42	0	-0.57	0.05
Financial services	0.03	1.88	0.27	0.06	0.2
Health and social work	0.55	0.56	5.85	-30.12	0.53
Sub-total	0.21	0.37	0.00	1.08	0.15

High employment	Construction	1.09	1.32	0.98	0.04	0.97
	Trade	0.4	0.68	0.16	-1.01	0.17
	Transport and storage	0.68	1.34	0.23	-1.23	0.34
	<i>Business service</i>	0.32	0.65	0.28	2.51	0.31
	Education	0.35	0.86	0.08	1.75	0.41
	<i>Other services</i>	-0.44	1.37	0.47	2.38	0.53
	Sub-total	0.47	1.03	0.40	-0.04	0.41
All		0.22	0.42	0.08	0.05	0.13

Source: Same as Table 18.1 and estimates from KLEMS

Note: n.e.c indicates not elsewhere classified

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Labour Market in Kerala: Examining the Role of Industrial and Employment Policies

Jayan Jose Thomas and M. P. Jayesh

I INTRODUCTION

Kerala's remarkable achievements in social spheres, including health, education and land reforms, have attracted considerable attention from scholars and policymakers worldwide. Despite these achievements, the growth of per capita income of Kerala was stagnant during the 1970s and much of the 1980s. This resulted in what many observers referred to as the 'development paradox' of Kerala. Ending the period of economic stagnation, Kerala's economy began to boom from the late 1980s onwards, mainly on account of the growth of the services and construction sectors.

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While economic growth continues to be fast even to this day, the impact of this growth on employment creation has been mixed. On the one hand, the creation of employment opportunities in the formal sectors of the economy has not been fast enough, especially so in comparison with the rising supply of workers from the state. There has been a continuing stream of migration of skilled workers, particularly nurses, engineers and other professionals, from Kerala to other parts of the world. At the same time, inward migration of workers from other Indian states to Kerala has also been increasing steadily. Migrant workers have a significant presence now in many areas of Kerala's economy, in particular in sectors such as construction, which demands unskilled labour.

This chapter aims to understand and document the challenges facing Kerala's labour market and argues for specific industrial and employment policies to meet these challenges. The next section (Sect. 2) compares and explains the demographic changes in Kerala and the rest of India from the 1980s onwards. Section 3 discusses the major aspects of the supply of labour in Kerala. Section 4 explains the link between economic changes and the nature of labour demand in Kerala. Section 5 deals with social changes and labour organization and their impact on the labour market in the state. Section 6 concludes the chapter and offers policy prescriptions.

2 DEMOGRAPHIC CHANGES IN KERALA

Kerala has witnessed a sharp decline in fertility and the birth rates from mid-twentieth century onwards. The decline in fertility rates in Kerala has been much faster than in the rest of India (Ramachandran 1996). The reduction in fertility rates has also quickened the pace of demographic transition in Kerala, especially so in relation to the rest of the country.

According to data from the Census of India, population in the age group of 0–14 years has been on a decline in Kerala since the 1980s—in absolute numbers from 8.9 million in 1981 to 7.8 million 2011 (see Table 19.1) and as a proportion of total population in the state from 35.0 per cent in 1981 to 23.4 per cent in 2011 (see Table 19.2). Correspondingly, the size of the working-age population has been increasing in Kerala. Population in the age group of 15–59 in Kerala increased from 14.6 million in 1981 to 17.8 million in 1991, 20.2 million in 2001 and 21.4 million in 2011 (see Table 19.1).

In 1981, populations in the age group of 15–59 (also referred to as 'working age' in this chapter) years as proportions of the total populations

Table 19.1 Population in different age groups: Kerala and India, 1981–2011 (in millions)

<i>Age groups</i>	<i>1981</i>	<i>1991</i>	<i>2001</i>	<i>2011</i>
<i>Kerala</i>				
0–14	8.9	8.6	8.3	7.8
15–29	7.7	8.8	8.8	7.9
30–59	6.9	9.0	11.4	13.5
60+	1.9	2.6	3.3	4.2
Total	25.5	29.1	31.8	33.4
<i>India</i>				
0–14	263.1	312.4	363.6	372.4
15–29	172.2	222.7	273.4	333.3
30–59	186.5	242.1	312.2	396.6
60+	43.2	56.7	76.6	103.8
Total	665.3	838.6	1028.7	1210.9

Source: *Census of India* (various years)**Table 19.2** Proportion of population in different age groups, Kerala and India, 1981–2011 (%)

<i>Age groups</i>	<i>1981</i>	<i>1991</i>	<i>2001</i>	<i>2011</i>
<i>Kerala</i>				
0–14	35.0	29.7	26.1	23.4
15–29	30.3	30.2	27.5	23.6
30–59	27.2	31.0	35.9	40.3
60+	7.5	8.8	10.5	12.6
Total	100.0	100.0	100.0	100.0
<i>India</i>				
0–14	39.5	37.2	35.3	30.8
15–29	25.9	26.6	26.6	27.5
30–59	28.0	28.9	30.4	32.8
60+	6.5	6.8	7.4	8.6
Total	100.0	100.0	100.0	100.0

Source: *Census of India* (various years)

of Kerala and India were 57.9 per cent and 53.9 per cent, respectively (see Table 19.2). Over the next two decades, the proportion of the working-age population (in total population) increased sharply in Kerala. Therefore, by 2001, the proportions of the working-age population were 63.4 per cent in Kerala compared to 57.0 per cent only in India as a whole (see Table 19.2).

However, the rate of growth of the working-age population in Kerala slowed down after 2001. Between 2001 and 2011, the proportion of the working-age population (in total population) increased only marginally in Kerala, by 0.5 percentage points (from 63.4 per cent to 63.9 per cent), whereas it increased by 3.3 percentage points in the country as whole (from 57.0 per cent to 60.3 per cent) (see Table 19.2). It appears that Kerala has already reached a stage at which it can benefit only marginally from the so-called demographic dividend. In contrast, the size of the working-age population is set to increase sharply in many other Indian states, especially in the northern and eastern parts of the country, including Uttar Pradesh and Bihar.

It is important to note that the working-age population increased in India from 585.6 million in 2001 to 729.9 million in 2011—an increase of 144.3 million (see Table 19.1). The increase in the working-age population in Kerala between 2001 and 2011—by 1.2 million—was only 0.8 per cent of the total increase in the working-age population in the country during the same period. (In 2011, Kerala's share in India's population was 2.8 per cent.)

At the same time, Kerala has a rapidly ageing population. Between 2001 and 2011, the size of the population above 60 years of age increased by 1.1 million in Kerala, which was almost as large as the increase in the working-age population in the state during the same period. Also, between 2001 and 2011, Kerala accounted for 4 per cent of the net country-wide increase in the population aged 60 years and above (see Table 19.1).

3 ASPECTS OF LABOUR SUPPLY

The labour participation rate indicates the proportion of the population that is economically active, which include the employed as well as those unemployed but actively seeking jobs. The proportion of the population that is employed is denoted by workforce participation rate or worker population ratio. Persons who are not economically active comprise those who are too young or too old to work, students, rentiers, recipients of pensions or remittances, the disabled as well as persons attending to 'domestic duties'.

According to the National Sample Survey (NSS), in 2011–12, labour force participation rates (or those in the labour force as proportions of the population, all ages) of males in rural and urban areas of Kerala were 58.3 per cent and 56.7 per cent, respectively (see Table 19.3). These

Table 19.3 Labour force as a proportion of population (all ages) or labour force participation rates in Kerala and India, 2011–12 (%)

<i>States</i>	<i>Rural males</i>	<i>Rural females</i>	<i>Urban males</i>	<i>Urban females</i>
Kerala	58.3	25.8	56.7	22.2
Tamil Nadu	60.7	38.6	59.9	21.1
Karnataka	62.0	28.9	59.4	17.1
Maharashtra	58.2	38.9	56.0	17.2
Gujarat	60.2	27.9	60.7	13.5
Tripura	59.9	28.7	59.4	26.0
India	55.3	25.3	56.3	15.5

Source: Estimates based on National Sample Surveys (NSS) on Employment and Unemployment

Note: Labour force is defined according to the usual principal and usual subsidiary status of persons

proportions were higher than the corresponding labour force participation rates among men in the country as whole. Although male labour force participation rates in Kerala were higher than the national average, they were lower than the male labour force participation rates in states such as Tamil Nadu, Karnataka and Gujarat (see Table 19.3).

Labour force participation rates among females (of all ages) are low in Kerala: 25.8 per cent and 22.2 per cent, respectively, in rural and urban Kerala in 2011–12, according to estimates from the NSS (see Table 19.3). It is indeed striking that female participation in the labour force is low in Kerala despite the progress that the state has made with respect to reducing gender disparities. At the same time, it is important to note that female labour force participation rates in Kerala are still higher than the corresponding rates in the country as a whole. In fact, Kerala has one of the highest rates of female labour force participation in urban areas in the country. In 2011–12, while labour force participation among females in urban Kerala was 22.2 per cent, the corresponding rates were only 10.9 per cent in Delhi, 13.5 per cent in Gujarat, 17.2 per cent in Karnataka and 15.5 per cent in India as a whole (see Table 19.3).

3.1 *Unemployment Rates*

Unemployed as a portion of the labour force is significantly higher in Kerala compared to the rest of India. According to NSS, in 2011–12, in the case of rural males in the age group of 15–29, unemployment rates were 9.7 per cent and 5.0 per cent in Kerala and India, respectively.

Table 19.4 Unemployed as a proportion of the labour force, in Kerala and India, 2011–12 (%)

	<i>Rural males</i>	<i>Rural females</i>	<i>Urban males</i>	<i>Urban females</i>
<i>Persons in all ages</i>				
Kerala	3.1	14.2	2.7	13.9
India	1.7	1.7	3.0	5.2
<i>Persons in the 15–29 age group</i>				
Kerala	9.7	47.4	8.4	37.1
India	5.0	4.8	8.1	13.1

Source: Estimates based on National Sample Surveys (NSS) on Employment and Unemployment

Unemployed as a proportion of the labour force (or unemployment rates) among females is much higher in Kerala than in most other Indian states. In 2011–12, female unemployment rates were 14.2 per cent in rural areas and 13.9 per cent in urban areas of Kerala. The corresponding rates at the national level were 1.7 per cent and 5.2 per cent, respectively (see Table 19.4).

3.2 *Workforce Participation Rates*

According to NSS, in 2011–12, workforce participation rates of men in rural areas were higher in Kerala compared to the rest of the country. This is true if we consider principal-status workers only as well as principal-status (PS) and subsidiary-status (SS) workers (PS and SS) combined.¹ Workforce participation rates of men in urban areas too were higher in Kerala compared to the national average if we consider PS and SS workers combined (see Table 19.5). According to NSS, in 2011–12, WPR of women in rural areas of Kerala was lower than the national average while WPRs of women in urban areas of Kerala were higher (see Table 19.5).

The Economic Tables of the Census of India also provide estimates of the workforce in the country. The Census categorizes workers as main and marginal based on the number of days they worked during the reference

¹NSS defines usual principal-status workers as persons who worked for a relatively longer part of the 365 days preceding the date of survey. From the rest of the population, NSS identifies usual subsidiary-status workers as persons who worked for at least 30 days during the reference period of 365 days preceding the date of survey.

Table 19.5 Workers as a proportion of population (all ages) or workforce participation rates in Kerala and India, according to NSS, 2011–12 (%)

	<i>Kerala</i>		<i>India</i>	
	<i>PS</i>	<i>PS + SS</i>	<i>PS</i>	<i>PS + SS</i>
<i>Male</i>				
Rural	54.3	56.5	53.5	54.3
Urban	54.0	55.2	54.2	54.6
All regions	54.2	56.2	53.7	54.4
<i>Female</i>				
Rural	16.1	22.1	17.6	24.8
Urban	16.1	19.1	12.5	14.7
All regions	16.1	21.3	16.1	21.9

Source: Estimates based on National Sample Surveys (NSS) on Employment and Unemployment

period, which is one year preceding the date of enumeration.² It will be interesting to compare workforce participation rates according to NSS and according to Census of India.

As shown already, according to NSS, WPRs in Kerala are higher than the corresponding national averages in the case of males and also females in urban areas in 2011–12. However, according to the Census of India, in 2011, WPRs in Kerala were lower than the corresponding national averages in the case of both males and females (see Table 19.6).

Marginal workers as proportions of the population are particularly low in Kerala relative to national averages. In 2011, Kerala was ahead of the country as a whole with respect to main workers as a proportion of the male population (44.8 per cent and 43.8 per cent in Kerala and India, respectively). However, marginal workers as proportions of male populations were 7.9 per cent in Kerala compared to 9.4 per cent in the country as a whole. As a result, Kerala lagged behind the rest of the country with respect to (main and marginal) workers as a proportion of the male population (52.7 per cent and 53.2 per cent in Kerala and India, respectively) (see Table 19.6).

It is notable that the proportion (in population) of marginal workers (7.9 per cent in the case of males in Kerala in 2011) according to Census

² Main workers are persons who worked for a major part of the reference period (i.e. for six months or more). Persons who worked for less than six months during the reference period are termed ‘marginal workers’.

Table 19.6 Main and marginal workers as proportions of populations: for various age categories, Kerala and India, from 1991 to 2011 (%)

<i>Age categories</i>		<i>Kerala</i>		<i>India</i>	
		<i>Main</i>	<i>Main & marginal</i>	<i>Main</i>	<i>Main & marginal</i>
<i>Male</i>					
15–29	1991	48.1	51.9	67.3	68.3
	2001	40.4	51.7	52.5	63.8
	2011	39.0	48.4	45.5	59.3
30–59	1991	86.4	90.5	95.3	95.9
	2001	77.2	90.0	87.5	95.4
	2011	79.8	91.6	81.9	94.7
15–59	1991	67.8	71.8	82.0	82.8
	2001	61.3	73.4	71.2	80.6
	2011	64.4	75.3	65.1	78.4
5–14	2011	0.5	0.9	2.0	4.1
60+	2011	33.7	41.9	49.4	60.4
All population	2011	44.8	52.7	43.8	53.2
<i>Female</i>					
15–29	1991	13.9	17.4	22.7	32.1
	2001	8.9	13.2	18.0	33.6
	2011	9.1	14.0	16.5	29.7
30–59	1991	25.2	30.7	28.8	39.4
	2001	21.3	29.5	27.9	45.6
	2011	22.7	32.8	27.6	43.8
15–59	1991	19.5	24.0	25.8	35.9
	2001	15.9	22.4	23.3	40.0
	2011	17.8	26.0	22.6	37.4
5–14	2011	0.3	0.7	1.4	3.6
60+	2011	6.1	10.1	14.0	23.4
All population	2011	12.4	18.2	15.2	25.5

Source: Estimates based on Economic Tables of the Census of India

is higher than the proportion of subsidiary-status workers (2.2 per cent in the case of rural males in Kerala in 2011–12) according to NSSO. As Thomas and Jayesh (2016) showed, the proportion of persons in the population who worked for a major part of the reference year in India is smaller according to the Census compared to the NSSO. On the other hand, the proportion of those who worked for a short period was bigger according to Census (compared to NSS) (Thomas and Jayesh 2016).

It is also interesting that marginal workers as a proportion of the population (according to the Census) is low in Kerala, relative to the national average (7.9 per cent and 9.4 per cent in Kerala and India, respectively, in the case of males), while subsidiary-status workers as a share of the population (according to NSS) in Kerala is relatively high (2.2 per cent and 0.8 per cent in Kerala and India, respectively, in the case of rural males) (see Tables 19.5 and 19.6).

Census of India provides estimates of WPRs for various age groups. It is indeed striking that the WPRs among the population in the working-age group (15–59) in Kerala are lower than the corresponding rates in the country as a whole. Kerala's distance (in regard to WPRs) from the national averages are more in the case of females and with respect to marginal workers. In 2011, main workers as proportions of the female population in the age group of 15–59 were 17.8 per cent in Kerala and 22.6 per cent in India as whole—the difference between the two rates being 4.8 percentage points. At the same time, main and marginal workers combined as proportions of the same category of population (females, 15–59 years) were 26 per cent and 37.4 per cent, respectively, for Kerala and India (see Table 19.6). The difference between Kerala and the national average rises to 11.4 percentage points in the latter case, mainly on account of the relatively smaller proportion of marginal female workers in the state.

The proportion of the population in the working age has already started plateauing in Kerala after reaching a relatively high level. At the same time, the proportion of dependents (population aged from 0 to 14 and 60 years and above) is relatively low in the state: in 2011, it was only 36.0 per cent in Kerala compared to 39.4 per cent in the country as a whole. Despite such a favourable demographic structure, WPR in Kerala is not very high. Part of the reason is the relatively high proportion of students in the population aged 15–29.

Compared to the rest of the country, the proportion of students in population in the age group of 15–29 is relatively high in Kerala. In 2011, this proportion was 38.9 per cent among males and 34.7 per cent among females in Kerala. The corresponding national averages were 29.8 per cent and 25.2 per cent, respectively, among males and females (see Table 19.7). Given that the proportion of students is relatively high, the proportion of workers is relatively low in the population in the age group of 15–29 in Kerala. This is a factor behind the relatively low level of WPRs in Kerala among the population in the working-age group.

Table 19.7 Students as a proportion of the population: Kerala and India, from 1991 to 2011 (%)

		<i>Kerala</i>		<i>India</i>	
		<i>Male</i>	<i>Female</i>	<i>Male</i>	<i>Female</i>
5–14	1991	86.4	86.6	82.1	57.8
	2001	89.9	90.2	68.3	61.9
	2011	90.1	90.2	77.3	75.9
15–29	1991	26.4	22.5	22.4	10.8
	2001	26.2	24.6	22.6	15.6
	2011	38.9	34.7	29.8	25.2
5+ population	2011	26.9	23.5	28.1	25.5

Source: Estimates based on Economic Tables of the Census of India

Nevertheless, it is still important to enquire into the factors that slow down the entry of persons in the working-age group into Kerala's workforce.

4 ECONOMIC CHANGES AND DEMAND FOR LABOUR IN KERALA

4.1 *Shift Away from Agriculture*

The shift of the labour force away from agriculture and other primary sector activities proceeded at a much faster pace in Kerala compared to the rest of India. Thomas (2005a) shows that in 1951, the share of workforce engaged in agriculture, other primary sector activities and mining and quarrying was 57.8 per cent in Kerala as against 76.1 per cent in India. In fact, Thomas (2005a) notes that, “in 1951 the share of the male working force engaged in agriculture (as cultivators and agricultural labourers) in Kerala was the lowest, and the share of the male working force engaged in manufacturing activities in Kerala was the highest among all Indian States (including Maharashtra and West Bengal, the two States in which the process of industrialization had gone much further) (Krishnamurty 1983, Table 6.6, cited in Thomas 2005a).”³

³According to Krishnamurty (1983), share of non-agricultural activities in total employment was high in Kerala even in 1911. During the half century that followed, there was

Table 19.8 Cultivators, agricultural labourers and workers (other than cultivators and agricultural labourers) as proportions of all workers: Kerala and India, 1991–2011 (%)

Year	Kerala		India	
	Males	Females	Males	Females
<i>Cultivators</i>				
1991	14.9	8.9	40.0	39.0
2001	9.1	6.8	31.1	32.9
2011	8.4	2.5	24.9	24.0
<i>Agricultural labourers</i>				
1991	22.7	13.2	21.0	43.4
2001	15.6	20.3	20.9	38.9
2011	15.6	15.5	24.9	29.8
<i>Workers (other than cultivators and agricultural labourers)</i>				
1991	62.7	55.8	39.1	17.5
2001	78.9	61.2	48.1	28.1
2011	83.9	81.5	50.1	36.9

Source: *Census of India* (various years)

In 1991, the combined share of cultivators and agricultural workers in total male workforce in Kerala was only 37.6 per cent as against the corresponding national average of 61.0 per cent (see Table 19.8). By 2011, the combined share of cultivators and agricultural workers in total male workforce declined to only 24.0 per cent in Kerala and 49.8 per cent in India as a whole. In the case of females, the combined share of cultivators and agricultural workers in total workforce in 2011 was only 18.0 per cent in Kerala compared to 73.8 per cent in India as a whole (see Table 19.8).

Industry-wise distribution of the workforce according to NSS also presents a similar picture (NSSO 2014). In 2011–12, workers engaged in agriculture and allied activities such as forestry and fishing comprised only 20.4 per cent of Kerala's total workforce as against 47.5 per cent in the case of India as a whole. Out of Kerala's total estimated workforce of 12.7 million, workers who engaged in agriculture and allied activities numbered only 2.6 million (in 2011–12) (see Table 19.9).

further shift in the State's occupational structure to manufacturing and services. See Krishnamurty (1983), Table 6.6 and pp. 541–544.

Table 19.9 Kerala's workforce by sectors, 2011–12

<i>States</i>	<i>In per cent</i>		<i>In millions</i>	
	<i>Kerala</i>	<i>India</i>	<i>Kerala</i>	<i>India</i>
Agriculture, forestry and fishing	20.4	47.5	2.6	224.5
Manufacturing	14.3	13.0	1.8	61.2
Industry	15.4	14.1	2.0	66.4
Construction	16.4	10.6	2.1	49.9
Trade, repair, transport, hotels and restaurants	26.4	15.5	3.4	73.4
Information technology, finance, real estate, professionals, administration, education, health*	17.3	9.3	2.2	43.9
Other services and household services	4.2	3.1	0.5	14.5
Total	100	100	12.7	472.5

Source: National Sample Survey Report on Employment and Unemployment in India, 68th Round, 2011–12

Note: *comprises education; health; social services; information services; financial and insurance activities; real estate; professional, scientific and technical activities; administrative and support service activities; public administration; and arts and entertainment

4.2 *Economic Transformation in Kerala*

Despite the rapid progress that Kerala made in social development indicators, the growth of per capita income of the state was stagnant during the 1970s and much of the 1980s. This resulted in what many observers referred to as the ‘development paradox’ of Kerala (Thomas 2005b).

But the growth of per capita incomes of Kerala witnessed a turnaround after the late 1980s. This fast growth continued through the 2000s (see Figs. 19.1 and 19.2). As a proportion of the Indian average, Kerala's per capita net domestic product was 84 per cent only in 1980–81 but 134 per cent by 2010–11. In fact, by the late 2000s, Kerala was in the top league among Indian states with respect to the level of per capita net state domestic product (see Table 19.10).

A considerable stimulus to economic growth revival in Kerala from the late 1980s was provided by agriculture. But it was the emergence of the services and construction sectors in a big way that clearly marked the end of the phase of economic stagnation in Kerala. The rapid growth of these sectors in Kerala has been driven to a large extent by remittances sent to the state by Malayalee migrant workers especially from the Gulf countries since the 1970s (Thomas 2005a, 2007, 2014).

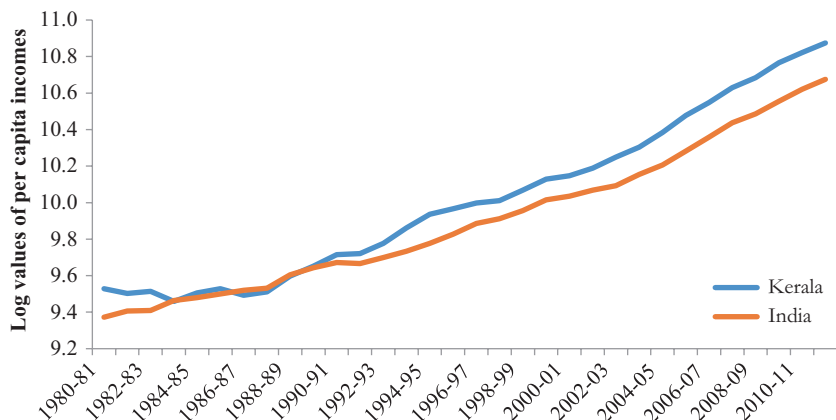


Fig. 19.1 Per capita incomes at factor cost (at constant prices), 2004–05 base year, Kerala and India, 1980–81 to 2011–12. Notes: The per capita income figure for Kerala is per capita Net State Domestic Product (NSDP) at factor cost (at constant prices) with base year 2004–05 and the per capita income figure for India is per capita Gross National Product (GNP) at factor cost (at constant prices) with base year 2004–05. Source: *Handbook of Statistics on the Indian Economy* (various years), Reserve Bank of India

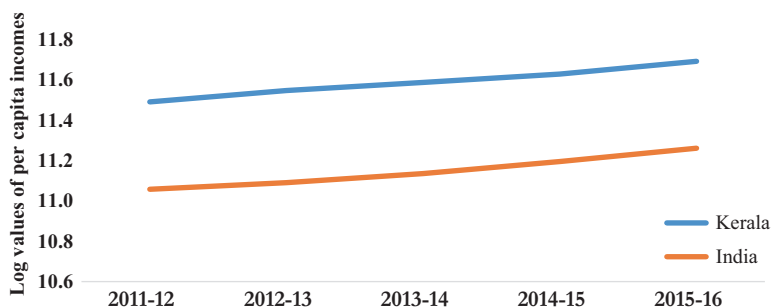


Fig. 19.2 Per capita incomes at factor cost (at constant prices), 2011–12 base year. Notes: The per capita income figure for Kerala is per capita NSDP at factor cost (at constant) prices with base year 2011–12 and the per capita income figure for India is per capita GDP at factor cost (at constant price) with base year 2011–12. Source: *Handbook of Statistics on the Indian Economy* (various issues), Reserve Bank of India

Table 19.10 Indices of per capita incomes of selected Indian states (per capita income of India = 100)

	<i>Kerala</i>	<i>Tamil Nadu</i>	<i>Gujarat</i>	<i>India</i>
1970–71	87.2	91.0	108.2	100
1980–81	83.6	83.1	107.6	100
1993–94	103.8	116.4	127.4	100
1999–2000	103.6	120.8	132.0	100
2010–11	133.9	141.5	140.8	100

Source: *National Accounts Statistics* (various years), Central Statistical Organisation (CSO), Government of India

While remittance incomes are not included in state domestic product calculations, their impact is seen in the data on per capita consumption expenditures (based on sample surveys of households on their food and non-food expenditures). Per capita consumption expenditure in rural Kerala had reached levels above the corresponding average for rural India during the 1970s itself, even before the revival in growth of domestic incomes in the state (Ramachandran 1996). According to the latest data, per capita consumption expenditures in rural and urban Kerala are the highest among all Indian states (also see Table 19.11).

From the late 1990s, the growth of incomes from agriculture, fishing and forestry slowed down sharply in Kerala. Although Kerala's agricultural products are relatively high value-adding products, cultivators in the state have been facing a number of problems since the late 1990s. They include the fluctuation in prices of agricultural commodities, rising costs of agricultural inputs, high agricultural wages, shortage of labour, changing weather conditions and the large-scale conversion of agricultural land into commercial and residential plots (Thomas 2007).

The structure of Kerala's economy today is noticeably different from the structure of the Indian economy at the national level (see Table 19.12). In 2012–13, agriculture and allied activities had a share of only 9.5 per cent in Kerala's gross state domestic product (GSDP) while they accounted for 13.9 per cent in India's gross domestic product (GDP). The share of manufacturing was only 7.5 per cent in Kerala in 2012–13. In India as a whole, manufacturing's share was bigger, at 15.8 per cent (see Table 19.12). The share of manufacturing in GDP is far higher than the Indian average in

Table 19.11 Fractiles of the distribution of persons by Monthly Per Capita Expenditure (MPCE) (uniform recall period) as indices (India = 100), 2011–12

<i>State</i>	<i>P5</i>	<i>P10</i>	<i>P30</i>	<i>P50</i>	<i>P70</i>	<i>P90</i>	<i>P95</i>
Kerala	156	157	153	161	163	177	199
Gujarat	135	129	116	117	113	106	106
Tamil Nadu	126	126	119	118	117	113	116
India	100	100	100	100	100	100	100

Source: National Sample Survey Organization's report on 'Key Indicators of Household Consumer Expenditure in India, 2011–12'

Note: P_k (for $k = 5, 10, 30, 50, 70, 90, 95$) is the k th percentile of the distribution of persons by MPCE, that is, the MPCE level below which k per cent of the population lies. P_5 is the fractile with the poorest, and P_{95} is the fractile with the richest groups of people in the population

China (31 per cent in 2012) and other East Asian countries. The relatively low share of the manufacturing sector in India's GDP is considered to be an important development challenge for the country. It is indeed a matter of concern that the relative size of the manufacturing sector in Kerala is even lower than the Indian average.

In contrast to the goods-producing sectors (i.e. agriculture and industry), which have relatively low shares, construction and the services sectors contribute relatively large shares to Kerala's NSDP. Construction accounted for a share of 12.2 per cent in Kerala's NSDP, more than the share of this sector in India's GDP, which was 7.8 per cent (see Table 19.12). Transport, storage and communication had a share of 16.8 per cent in Kerala's NSDP, while these sectors accounted for 10.7 per cent of India's GDP. Overall, the services sector's shares in Kerala's NSDP and India's GDP were 69.2 per cent and 58.8 per cent, respectively (see Table 19.12).

The size of the registered manufacturing sector (which is roughly equivalent to the factory sector) is particularly low in Kerala. This sector contributed only 3.5 per cent to Kerala's NSDP in 2012–13, much lower than its share in India's GDP (11.2 per cent) in the same year. It is also striking that the size of registered manufacturing is lower than that of unregistered manufacturing in Kerala (see Table 19.12).

Table 19.12 Shares of various sectors in Kerala's Gross State Domestic Product (GSDP) and India's Gross Domestic Product (GDP) (both at constant 2004–05 prices), 2011–12 (%)

<i>Sl. no</i>	<i>Sectors</i>	<i>Share in Kerala's GSDP</i>	<i>Share in India's GDP</i>
1	Agriculture and allied activities	9.5	13.9
1a	Agriculture	7.5	11.8
2	Mining and quarrying	0.4	2
3	Manufacturing	7.5	15.8
3a	Registered	3.5	11.2
3b	Unregistered	4.1	4.5
4	Electricity, gas and water supply	1.2	1.88
Sum of sectors 2, 3 and 4	Industry	9.2	19.6
5	Construction	12.2	7.8
6	Transport, storage and communication	16.8	10.7
6a	Communication	8.8	4.1
7	Trade, hotels and restaurants	17.9	16.1
8	Banking and insurance	8.0	9.4
9	Real estate, ownership of dwellings and business services	11.9	9.8
10	Public administration	5.7	5.5
11	Other services	8.9	7.3
Sum of sectors 6, 7, 8, 9, 10 and 11	Services	69.2	58.8
	GDP/GSDP	100	100

Source: *National Accounts Statistics*, Ibid.

5 SOCIAL CHANGES, LABOUR MOVEMENTS AND THEIR IMPACTS ON THE LABOUR MARKET

5.1 *Improvements in Health and Education*

It is well known that a healthy and educated population forms the main pillar for economic growth and social development. As already noted, Kerala is well known for its achievements in social spheres, including health, education and land reforms. These achievements have been attributed to what Drèze and Sen (2002) describe as public action, that is, the combined effect of interventions by state governments, political parties, the media, judiciary and other institutions. Much of these positive interventions in Kerala occurred over the years after the formation of the state in 1956 (Krishnan 1991; Ramachandran 1996; Sen 1996).

According to Drèze and Sen (1995), Kerala's achievements with respect to life expectancy, infant mortality rate, female-male ratio and total fertility rate have been markedly better than those of other Indian states and comparable to the achievements of China (Drèze and Sen 1995). The emphasis given by the government of Kerala on decentralization of governance from 1994 onwards gave further impetus to the improvement of the public healthcare system in the state. Panchayats and other local self-government institutions contributed to the building of infrastructure and other facilities in primary and secondary healthcare institutions across the state. Kerala continues to be a leader among Indian states with respect to advancements healthcare facilities (Drèze and Sen 2013). In 1961, infant mortality rates of Kerala and India were 52 and 115 per thousand live births, respectively (Ramachandran 1996). By 2016, these rates declined to 12 and 39 per thousand live births for Kerala and India, respectively (Government of Kerala 2016, 193).

Kerala has relatively low birth rates and high life expectancy at birth. In 2016, birth rate in Kerala was 14.8 births per thousand population, whereas the corresponding figure for the nation as a whole was 21 births per thousand population (GoK 2016, 194). In 1951–61, while an average woman lived up to 35.7 years in India as a whole, an average woman in Kerala could live up to 45.3 years (the corresponding figures for men were 35.5 years and 44.3 years, respectively, for India and Kerala) (Ramachandran 1996). By 2016, life expectancy at birth of an average woman in India and Kerala was 64.2 years and 76.3 years, respectively (the corresponding figures for men were 62.6 years and 71.4 years, respectively, for India and Kerala) (GoK 2016, 194).

In 2011, sex ratio for Kerala was 1084 women per thousand men whereas the corresponding figure for the country as a whole was 943 women per thousand men (as per the Census of India, 2011). Nevertheless, it appears that sex ratio is turning adverse even in Kerala. In 2011, child sex ratios (female children per thousand male children) were 964 and 919, respectively, for Kerala and India.

5.2 *Achievements in Literacy and Education*

Kerala holds the top position among Indian states in terms of literacy levels of the population. As per the Census of India, in 1951, the literacy rates for males and females in Kerala were 58.4 per cent and 36.4 per cent, respectively. The corresponding rates for India as a whole were 27.2 per cent and 8.9 per cent (for males and females, respectively) (see Table 19.13).

Table 19.13 Literacy rates by gender and years, Kerala and India (%)

Year	Kerala			India		
	Males	Females	All persons	Males	Females	All persons
1951	58.4	36.4	47.2	27.2	8.9	18.3
1961	64.9	45.6	55.1	40.4	15.4	28.3
1971	77.1	62.5	69.8	46.0	22.0	34.5
1981	84.6	73.4	78.9	56.4	29.8	43.6
1991	93.6	86.2	89.8	64.1	39.3	52.2
2001	94.2	87.9	90.0	75.3	53.7	64.8
2011	96.0	91.6	93.9	82.1	65.5	74.0

Source: *Census of India* (various years)

As shown, literacy rates in Kerala were much above the respective Indian averages, although there was considerable gender gap in literacy rates in the state (22 percentage points in 1951). By 2011, literacy rates for males and females in Kerala were 96.0 per cent and 91.6 per cent, respectively. The corresponding Indian averages for males and females were 82.1 per cent and 65.5 per cent, respectively. Kerala's record has been remarkable both in achieving near-universal literacy rates and in reducing the gender gap in this area.

According to the NSS report on employment and unemployment in India in 2007–08, Mean Years of Schooling (MYS) for Kerala's labour force was 8.5 years compared to MYS of 5.5 years only for the labour force in the country as a whole. In the same year, MYS of the labour force was only 6.2 years for Tamil Nadu, 4.3 years for Andhra Pradesh, 5.5 years for Karnataka and 5.8 years for Gujarat (Planning Commission, 2014).⁴

According to data from the Ministry of Human Resources Development, Government of India, in 2015–16, the total number of students who pursued higher education in India was 34.6 million (comprising 18.6 million male students and 16.0 million female students) (see Table 19.14). Students who pursued higher education as proportions of population in the age group of 18–23 in India as a whole were 25.4 per cent and 23.5 per cent, respectively, for males and females. The total number of students who pursued higher education in Kerala in 2015–16 was a little less than 1 million (0.94 million), which included 0.41 million male stu-

⁴See MYS for all states: http://planningcommission.nic.in/data/datatable/0306/Databook_June2014.pdf.

Table 19.14 Numbers (in thousands) of students enrolled in higher education in Kerala and India and students in Kerala as a share of students in India, 2015–16

Course	Number (in thousands) of students enrolled				Students in Kerala as a share of students in India	
	Kerala		India		Male	Female
	Male	Female	Male	Female		
MPhil/PhD	2.2	3.4	92.0	77.0	2.4	4.4
Postgraduate	36.9	76.2	1818.4	2098.7	2.0	3.6
Undergraduate	328.1	419.4	14,611.6	12,808.8	2.2	3.3
PG Diploma	0.8	0.9	123.4	106.2	0.7	0.9
Diploma	34.6	29.1	1793.3	755.8	1.9	3.9
Certificate	0.5	2.4	63.3	80.8	0.8	2.9
Integrated	2.4	2.3	92.6	62.8	2.6	3.7
Total	405.6	533.6	18,594.7	15,990.1	2.2	3.3

Source: *All India Survey on Higher Education, 2015–16*, Government of India (Table Number 43, P. T123–T138)

Note: *PG* postgraduate, *MPhil* master of philosophy, *PhD* doctorate in philosophy

dents and 0.53 million female students. Students who pursued higher education as a proportion of population in the age group of 18–23 years in Kerala were 26.6 per cent and 35.0 per cent, respectively, for males and females (see Table 19.15).

It may be noted that students enrolled for higher education is not very high in Kerala, although (as shown earlier) students as a proportion of population in the age group of 15–29 are considerably higher in Kerala compared to the rest of the country (see Tables 19.14 and 19.15). In 2015–16, students pursuing higher education in Kerala as proportions of all students pursuing higher education in the country were 2.2 per cent for males and 3.3 per cent for females. (In 2011, Kerala's share in India's population was 2.8 per cent.) At the same time, it is notable that women outnumber men with respect to overall enrolment in higher education in Kerala. More female students than male students have been enrolled in undergraduate, post-graduate and MPhil/PhD courses (see Table 19.14).

Another notable feature is that the number of male students who were pursuing diploma or certificate courses is relatively low in Kerala. Although there has been a large expansion in the number of private engineering colleges and of students enrolled in these colleges in Kerala, there has not

Table 19.15 Students enrolled in higher education in selected Indian states (in thousands) and as proportions of population in the age group of 18–23, 2015–16

<i>States/India</i>	<i>Number of students ('000s)</i>		<i>As proportions of 18–23 population (%)</i>	
	<i>Male</i>	<i>Female</i>	<i>Male</i>	<i>Female</i>
Kerala	406	534	26.6	35.0
Maharashtra	2248	1739	32.0	27.6
Gujarat	865	622	22.9	18.3
Tamil Nadu	1690	1545	46.3	42.4
West Bengal	1034	892	19.1	16.2
India	18,595	15,990	25.4	23.5

Source: *All India Survey on Higher Education, 2015–16*, Government of India

been a similar growth in the enrolment of students in polytechnics and industrial training institutes (ITIs) in the state. This has created some degree of imbalance in the nature of technical skills available in the state.

5.3 *Labour Organization and Their Impacts*

An important feature of Kerala's labour market is that workers in the state have organized themselves in various sectors, aided by effective interventions by trade unions and the government. As a result, even informal labour markets in Kerala have acquired some formal characteristics. Labour movement in Kerala has organized wide sections of informal-sector workers—from head-load workers to agricultural labourers—who remain outside the fold of the organized workers' movement in many other parts of the country. This has resulted in substantial improvement in workers' wages and working conditions and in the coverage by social security schemes in these sectors. These achievements have been the outcomes of years of trade union activism and workers' struggles in Kerala (Kannan 1998; Heller 1999; Thomas 2005b; Patrick 2005; Issac 2017).

Scholars have traced the various stages with respect to labour market formation and trade union activism in Kerala over the years (Kannan 1998; Heller 1999; Patrick 2005; Issac 2017). The trade union movement in Kerala first emerged during the 1920s among workers in the coir factories in Alappuzha. The struggles by workers for better wages and working conditions went hand in hand with the struggles for greater social status

waged by oppressed castes, to which most of the coir workers belonged (Issac 1982). In fact, workers belonging to disadvantaged castes benefited much from the new job opportunities that emerged in Kerala during the first half of the twentieth century, mainly on account of colonial capital investment in plantations, public works and agro-processing industries (Issac 1985; Raman 2009).

The formation of the state of Kerala in 1956 and the implementation of land reforms and other redistributive measures by the state governments have brought about important changes to Kerala's labour market. By the 1970s, land reform legislations in Kerala ensured ten cents of land in rural areas and five cents of land in urban areas for the landless people in the state (Ramachandran 1996). This allowed workers to be freed of their dependence on the *Janmis or the landlords*. This, in turn, facilitated the workers' shift away from agriculture and also enabled the growth of the labour market in Kerala (Balakrishanan 1999). The migration of workers from Kerala to the West Asian Gulf countries also began on a large scale from the 1970s onwards. This migration was a response to the high levels of unemployment in the state and also to the new opportunities that opened up in the oil-exporting Gulf countries.

5.4 *Welfare Boards and Informal Workers in the State*

The process of formalization of informal workers in the state has been carried out mainly through the setting up of institutions such as the Labour Welfare Fund Boards in various departments of the Government of Kerala. The mandate of these welfare fund boards is to administer social security measures for various sections of workers, such as head-load workers, toddy workers and agricultural workers. Their activities range from distributing pensions to running old-age homes for destitute workers. In fact, the first welfare board in India was established in Kerala for construction workers in the state in 1990, following a legislation passed in the Kerala Legislative Assembly in 1989 (Joseph 2003). Today there are around 29 labour welfare fund boards functioning in the state (GoK 2016, 2018). There are 17 various types of benefits received by informal-sector workers from these Boards, including, for instance, financial assistance for education of workers' children. The workers are registered in welfare boards with active assistance and intervention from trade unions, which act as intermediaries between workers and the government. In 2010, the Government of Kerala had initiated steps to extend welfare measures to migrant workers working in the state by launching the Kerala Migrant Welfare Programme-2010 (KMWP).

5.5 *Outward and Inward Migration and Other Emerging Trends in Labour Market*

As already noted, Kerala's economy entered a phase of revival from the late 1980s onwards. With economic growth in the state gaining further speed during the 2000s, demand for labour increased, particularly in sectors such as construction. At the same time, Kerala's economy began to face a shortage of manual workers in various sectors. The state's economy is now dependent on the inflow of migrant workers, especially from the eastern and northern Indian states, including Bihar, West Bengal and Odisha. According to estimates by the Gulati Institute of Finance and Taxation (GIFT), the number of migrant workers in Kerala from other Indian states was 2.5 million in 2011. Given that Kerala's total workforce numbered 12.7 million in 2011–12 (according to estimates from NSS, see Table 19.9), the size of inward migrants in Kerala could be as high as 20 per cent of the state's total workforce in that year. The number of inward migrants may have increased further to four million in 2016 as per *Economic Review* (GoK 2016). Most of the migrant workers in Kerala from other states have poor educational backgrounds, and they work in jobs involving hard manual labour.

At the same time, there has been a continuing stream of migration of workers from Kerala to other Indian states and to foreign countries, including the Gulf countries, the US, Australia, Singapore and Canada. A large share of migration from Kerala is of professionally skilled workers, including nurses, engineers, teachers, accountants, doctors and so on. In 2011, 1.4 million workers from Kerala were working outside the state, according to an estimate by the state government (*Pravasi Malayali Census 2011*). As per the *Kerala Migration Survey* (KMS 2011), the number of emigrants from Kerala living in foreign countries was around 2.3 million in 2011. Meanwhile, the number of migrants from Kerala in other Indian states was estimated to be around one million in 2011 (Zachariah and Irudaya Rajan 2012).

It is notable that despite the high wages for manual work in Kerala, local workers have been increasingly showing reluctance to take up manual jobs (Zachariah and Irudaya Rajan 2005). A major reason for this could be the perception held by the Malayalee workers that manual work is somehow less dignified than, say, working in an office. At the same time, there has been a shortage of jobs in the high value-adding services, which could have met the aspirations of the educated youth in the state. The services

sector jobs that are currently available in the state such as jobs in retail shops pay much less compared to the wages for manual workers.

Wage rates of casual workers in the agricultural and non-agricultural sectors in Kerala have been one of the highest among all Indian states. According to data for June 2015 from the Labour Bureau, average male agricultural wage rate was ₹590 per day in Kerala, whereas the corresponding national average was ₹232 per day. Average daily wage of a carpenter was ₹726 in Kerala and ₹358 in India as a whole. Daily wage rates of female agricultural workers for the same period of time (June 2015) were ₹410 in Kerala and ₹177 for the country as a whole. It is also notable that while wage rates for both male and female casual workers in Kerala are higher than those in other parts of the country, gender disparity in wage rates continues to persist in Kerala.

It is striking that the earnings of a majority of employees in the services sector in Kerala, including teachers and nurses in private institutions, are likely to be less than the earnings of a typical manual worker in the state. The average monthly salaries of teachers and nurses working in the private sector in Kerala are in the range of ₹8000–10,000. In recent years, there have been strikes in Kerala by many sections of workers engaged in the private sector, including nurses, teachers and salespersons. New forms of trade union organization have emerged too. United Nurses Association (UNA), an association of nurses, which is registered as a trade union in 2012, has been at the forefront of the resistance waged by nurses in Kerala against exploitative practices of some private hospital managements in the state. The state government has also taken several steps to ensure better salaries and working conditions for employees in the services sectors.

6 SUMMARY AND POLICIES FOR EMPLOYMENT CREATION

This chapter describes and analyses some of the distinctive features of Kerala's labour market. There are a number of factors that influence labour supply and labour demand in the state. The pace of demographic transition in Kerala has been much faster than in the rest of the country. One of its consequences has been that the state's population has already started ageing. Kerala's achievements in social spheres and interventions by trade unions and state governments have brought about positive changes in the state's labour markets. Even informal labour markets in Kerala have acquired some formal characteristics, mainly in terms of providing some form of social security and welfare mechanisms for the workers. Wage rates

of casual workers in the agricultural and non-agricultural sectors in Kerala have been one of the highest among all Indian states.

The transition of the workforce away from agriculture and other primary sector activities has proceeded at a much faster pace in Kerala compared to the rest of India. At the same time, however, the absorption of the workforce by manufacturing and other modern sectors has been rather limited in the state. Services sector jobs, including jobs as teachers and nurses in the private sector, have been a major source of employment for educated workers in the state. There has indeed been a shortage of high value-adding jobs in the services and manufacturing sectors to meet the aspirations of the educated youth in the state. An important feature of the labour market has been the migration, starting from the 1970s onwards, of workers from Kerala to other Indian states and to foreign countries such as the Gulf countries, the US and Singapore.

At the same time, beginning in the 2000s, Kerala's economy began to face a severe shortage of workers for manual jobs. The state's economy is now dependent on the inflow of migrant workers, especially from the eastern and northern Indian states, including Bihar, West Bengal and Odisha. It is notable that services sector jobs that are currently available in the state, such as jobs in retail shops, pay much less compared to the wages for manual workers.

The features outlined earlier, together, point to a mismatch in Kerala's labour market—between the nature of labour supply and the nature of labour demand in the state. Clearly, the way ahead for Kerala involves the promotion of specific industrial and economic activities that increase labour absorption in the state.

6.1 Policies for Industrial Growth

Previous studies have shown that the roots of Kerala's industrial backwardness lie in the nature of industrial investments to the state from the 1930s. These investments, mostly into chemical-producing industrial units, were built on the short-term advantage of cheap hydroelectricity and some locally available raw material. However, the growth of the chemical industry in Kerala was constrained by the shortage of electricity from as early as the 1950s, as well as by problems of environmental pollution and the high cost of land. All these factors have led to a small and less-diversified industrial sector in Kerala (Thomas 2005a, b). At the same time, there is hardly any empirical evidence to support the popular

argument that Kerala's industrial backwardness is due to the radical nature of labour and trade union relations in the state (Thomas 2003).

The nature of centre-state financial relations in India has allowed only limited degrees of freedom for the state governments with respect to intervention in industrial development. From the 1990s onwards, there has been a sharp fall in India in public investment. Indian states often compete with each other to attract investments by foreign and large Indian corporations, giving away tax and other concessions to private industrialists (Thomas 2014). Such a policy environment has complicated the prospects of economic development for a small economic region like Kerala. Also it is clear that given its class-conscious and educated workforce, Kerala is not a region suited for economic activities, relying exclusively on cheap and exploitative labour.

Given the above-discussed context, it is now widely agreed that Kerala as a region is *not* suited for industrial units that require large plots of land, industries that are polluting or industries that depend more on unskilled labour. On the other hand, Kerala can and should aim to set up a modern industrial sector that builds on the specific advantages enjoyed by the state with respect to natural resources and people. The *Approach Paper* to Kerala's 13th Five-Year Plan (for the period 2017 to 2022) has also made such an argument in setting the agenda for the state's industrial development (GoK 2017). The *Approach Paper* envisages an industrial sector, which "comprise[s] units that are relatively small (particularly with respect to the requirements of land and capital), and yet can be characterized as 'smart' (given their flexibility in production and adaptability to market conditions)" (GoK 2017, 34).

There is great potential in Kerala for the promotion of industries based on natural resources of the state, importantly food- and agro-based industries. Kerala produces a wide variety of agricultural products and is rich in marine and forest wealth. There is a relatively large market for food- and agro-based products within Kerala and from the diaspora of Malayalees worldwide. It is important to note here that average per capita consumption expenditure of rural Kerala is almost twice the average per capita consumption expenditure of rural India (in 2011–12, according to National Sample Survey data).

At the same time, there is scope in Kerala for the development of specific segments of chemical, electronic and engineering industries and also of industries based on advanced technologies such as biotechnology, nanotechnology and life sciences. There are a number of public sector

industrial units and research institutions in Kerala in the above-referred areas. Consider, for instance, the case of the pharmaceuticals industry. The size of the market for pharmaceuticals in Kerala is large, approximately 10 per cent of the market for pharmaceuticals in India as a whole. At the same time, however, the current production of pharmaceuticals in Kerala is very small. Kerala should explore the possibility of launching research and manufacturing of generic drugs, especially for the treatment of tropical diseases, which can benefit poor patients within the state and outside. This will be one good example of how Kerala can transform its existing advantages in the health sector to success in manufacturing drugs and health products.

Private entrepreneurship will flourish in Kerala if the state government evolves programmes to harness the energies of the large body of Malayalee engineers and professionals worldwide. Kerala needs to institute specific programmes to encourage entrepreneurship in the state, particularly among students and women. There is a need to build greater linkages between academic institutions and industry in Kerala, in order to create an environment conducive for entrepreneurship and employment creation.

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What Employment Policy for a Globalized India?

Sher S. Verick

I INTRODUCTION

Since 1991, when India began its crisis-induced embrace of liberalization and globalization, the economy has grown on average by almost 7 per cent per annum, a far cry from the ‘Hindu rate of growth’ of preceding decades (around 3.5 per cent). India’s share in world GDP increased from an average of 4.8 per cent from 2001–07 to 7.5 per cent in 2017 in purchasing power terms.¹ Following on from a more open trade regime, India has become more engaged with other countries through trade, which increased as a percentage of GDP from 17.2 per cent in 1991 to 55.8 per cent in 2012 (though it has since fallen to 40.6 per cent in 2017).²

¹IMF World Economic Outlook October 2017. <https://www.imf.org/external/pubs/ft/weo/2017/02/weodata/index.aspx>. Accessed on 22 July 2018.

²World Bank World Development Indicators database, <https://datacatalog.worldbank.org/dataset/world-development-indicators>. Accessed on 22 July 2018.

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Post-1991 growth has boded well for household incomes: from 2004–05 to 2011–12, the wages of regular workers grew by 3.98 per cent per annum, while it grew by 6.15 per cent for casual workers. Consequently, the share of the population under the poverty line (nationally defined) fell from 45.3 per cent in 1993 to 21.9 per cent in 2011.³ Though there is considerable debate on measurement of poverty in India, there is strong evidence that incomes have risen.

Despite the strong performance of the Indian economy and growth in incomes, there has been considerable concern about job creation during the last couple of decades. Many commentators have claimed that India has suffered from ‘jobless growth’. This widespread view stems from the evidence that emerged from the main source of labour force data in India, the National Sample Survey (NSS): the release of the 2009–10 NSS data suggested a net increase in employment of just 1.1 million from 2004–05 to 2009–10. Many academics and policymakers questioned how could an economy growing at around 8 per cent per year create just over a million jobs in five years in a country with a total workforce of over 450 million.

If taken at face value, the data points from the second half of the 2000s do indeed indicate a period of jobless growth. However, going beyond aggregate labour market statistics reveals a far more complex story, which suggests both positive and negative trends. Disaggregating total employment by location, gender and sectoral trends shows that, despite the overall stagnation of aggregate employment, jobs were being created. Much of the slow growth in employment can be attributed to the withdrawal of workers (mostly the self-employed) from agriculture, especially women. During the 2000s, male employment grew by 1.9 per cent per annum from 1999–2000 to 2011–12, while female employment increased by only 0.3 per cent on an annual basis. Urban areas accounted for 57.2 per cent of the growth in employment, though just over 30 per cent of the population live in urban areas (as per the 2011 Population Census).

The key lessons from the labour market outcomes in recent years are (a) analysing total employment can be misleading; what matters is who gets the jobs and where are they located; (b) beyond the quantity of jobs, the greater challenge in a country, such as India, is the quality of employment since most work is informal, and hence, workers lack access to social protection and a range of workers’ rights.

³ All labour market figures are sourced from the National Sample Survey, unless otherwise indicated.

Acknowledging the importance of the prioritization of jobs within economic and social policies (and political strategies), governments around the world have turned to different interventions to promote better labour market outcomes, often with a focus on young people. However, since employment is a crosscutting issue, there is no single policy response, which can rectify the different and highly complex demand- and supply-side constraints to the creation of decent and productive jobs.

The International Labour Organization (ILO) promotes and supports member states to formulate and implement comprehensive and integrated employment policies, which take into account different dimensions that also address the quality of jobs (e.g. through the access to social protection, strengthening of workers' rights). Broad directions for such an approach are guided by ILO's Convention 122 on Employment Policy and the resolution adopted by the International Labour Conference in 2014 on employment. Successful adoption and implementation of comprehensive employment policies rests on effective coordination and capacity across various arms of government, along with other stakeholders, in particular, social partners.

In addition to all-encompassing employment policies, many governments focus on strategies that address specific sectors, which have the potential to create jobs. Sectoral strategies in a number of countries target manufacturing, given its important role in the process of structural transformation and development. However, many economies have failed to follow a path of industrialization. In some respects, India falls into this category, though, as argued in this chapter, this is a simplistic view, which obscures both positive and negative trends in manufacturing employment.

Many countries, including India, have utilized more micro-policies to improve outcomes in the labour market, often targeting youth. In this regard, active labour market policies (ALMPs), covering employment services, training, subsidies, public employment programmes and entrepreneurship promotion, are evident in India and around the world. Based on global evidence, some ALMPs appear to be quite effective (e.g. job search assistance), while others have a mixed impact. The challenge is to have more regular monitoring and evaluation of outcomes to generate evidence for the adaptation of policies and programmes. Ultimately, ALMPs will provide only part of the answer and, therefore, need to be complemented by other measures.

Another important policy area in India (and other countries) is the low and declining female labour force participation. Indeed, one of the biggest

puzzles to emerge during the 2000s was the fall in female labour force participation in India, which was most pronounced in rural areas due to the withdrawal of women from agriculture. At less than 30 per cent, India has one of the lowest levels of female labour force participation in the world, which is the result of a complex set of demand- and supply-side factors, including social norms and the lack of appropriate job opportunities where women live. The long-term challenge in India is to increase opportunities for women to work outside the home in decent and productive employment.

The majority of workers in India are informal due to the nature of the workplace and the employment conditions provided by employers. Behind the apparent persistence of informality in the Indian labour market, there are actually two underlying, but diverging, trends. Firstly, the share of workers in the unorganized sector fell from 86.3 per cent in 2004–05 to 82.2 per cent in 2011–12. At the same time, the share of informal workers in the organized sector (i.e. workers without access to social security in larger enterprises) increased significantly through the greater utilization of contract and other forms of casual labour. Due to these two countervailing trends, the percentage of workers in informal employment in India has persisted at around 92 per cent. Policies to promote the transition to formal employment are in place in India, but these interventions are yet to make much of a dent in the vast stock of informal employment in the country.

The remainder of the chapter is structured as follows. Section 2 reviews the trends in key labour market outcomes in India, including the impact of structural transformation, informalization and gender disparities. Section 3 explores how various approaches to employment policies can be implemented to promote better outcomes in the labour market, focusing on comprehensive employment policies, active labour market policies and policies needed to promote better outcomes for women in the labour market. Section 4 concludes the chapter.

2 EMPLOYMENT TRENDS IN THE INDIAN LABOUR MARKET

As discussed in detail in Verick (2017) and noted earlier, an analysis of aggregate trends in India over the 2000s suggested that the growth was largely associated with an increase in labour productivity, while employment

had stagnated. From 2004–05 to 2011–12, net employment increased by just 1.1 million, resulting in a fall in the employment rate. This has been (and still is) taken as *prima facie* evidence of ‘jobless growth’. However, as argued here and in Verick (2017), this view is misleading.

It is important to note that even net employment grew strongly from 2009–10 to 2011–12 as total employment between the two periods increased from 459 million to 472.9 million. Thus, compared to the increase of just 1.1 million over the previous five years (2004–05 to 2009–10), employment rose, in net terms, by almost 13 million in just two years. Again, taking a simplistic view of the relationship between growth and employment, there was clearly a shift in the contribution of the change in the employment rate to the growth in per capita value added (Verick 2017).

In large developing economies, true ‘jobless growth’ is unlikely, apart from economies relying on the natural resources (e.g. oil) for growth. In a large, diverse country like India, jobs are being created and destroyed on a continuous basis; on the other hand, most workers are not employed in a job but are self-employed (around 51 per cent of all workers), while employment in India is often temporary or seasonal. The more important issue is where jobs are created and who is accessing them, particularly the better-quality jobs. In this context, trends from the 2000s show that employment trends reflected underlying imbalances in the economic growth path of India and disparities faced by women.

2.1 Where Did Women Go? The Puzzle of the Decline of Female Labour Force Participation in India

The decline in the female labour force participation rate in India has been one of the more puzzling trends to emerge over the last few decades (Fig. 20.1). The labour force participation rate for Indian women aged 15 and above in India declined from 37.3 per cent in 2004–05 to 27.2 per cent in 2011–12. A similar 10 percentage point decline is evident using the usual status. On the basis of data from the Labour Bureau, the rate fell further from 2013–14 to 2015–16 (usual status definition) (see Fig. 20.1 for source).

The unexpected decline in the labour force participation rates of women in India was largely driven by the withdrawal of women from rural employment, while rates in urban areas of the country have been more or less stagnant over many decades. From 2004–05 to 2009–10, the number of

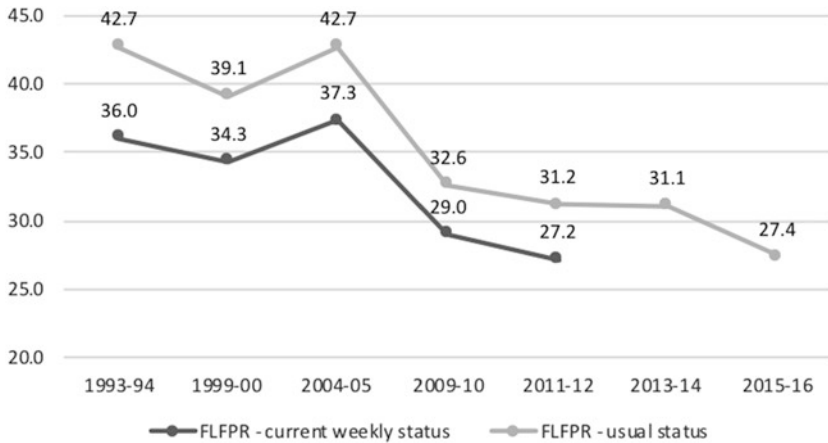


Fig. 20.1 Falling labour force participation rate among Indian women, (per cent) (current weekly status and usual status, 15 years+). Source: *Employment and Unemployment Survey* (various rounds), National Sample Survey Organisation, Ministry of Statistics and Implementation, Government of India. *Report on Fourth Employment and Unemployment, 2013–14, Vol. I.* https://labour.gov.in/sites/default/files/Report%20%20Vol%201%20final_0.pdf; *Report on Fifth Report on Employment and Unemployment, 2015–16, Vol. I.* http://labourbureaunew.gov.in/UserContent/EUS_5th_1.pdf. Both accessed on August 10, 2018 (usual status only). Note: The current weekly activity status of a person is the activity status obtaining for a person during a reference period of seven days preceding the date of survey. According to the usual status, workers are those who perform some work activity either in the principal status or in the subsidiary status. Thus, a person who is not a worker in the usual principal status is considered as worker according to the usual status, if the person pursues some subsidiary economic activity for 30 days or more during the 365 days preceding the date of survey

women workers dropped by 21.3 million, of which 19.5 million were in rural areas. At the same time, the number of men working increased by 22.4 million. These countervailing trends leads to the premature conclusion of ‘jobless’ growth, as highlighted earlier.

In recent years, there has been considerable debate and research on the phenomenon of declining female labour force participation. Most of the studies (see Dasgupta and Verick 2016, for an overview) focus on four explanations for the decline: firstly, increased enrolment in secondary schooling; secondly, rising household incomes, which pulled women out

of the drudgery of agricultural labour; thirdly, mis-measurement of women's participation in the labour force; and finally, the lack of employment opportunities for women in the non-farm sector.

Increased enrolment in education meant that more young women were staying out of the labour force. From 2005 to 2013, the gross enrolment ratio in secondary school in India increased from 48.7 to 69.2 per cent for girls, compared to an increase for boys from 59.2 to 68.6 per cent. The gross enrolment ratio in tertiary education for women has grown strongly from just 8.8 per cent in 2005 to 23.1 per cent in 2013 (for men, it rose from 12.5 to 24.6 per cent). Nonetheless, the increase in educational enrolment ratios does not fully explain why the labour force participation rate of prime-age women also fell during the 2000s (Dasgupta and Verick 2016).

Another argument is that women's work is underreported: women are engaged in certain activities, but these are not correctly captured as being economically active. However, Kapsos et al. (2014) has argued that this explanation cannot explain the bulk of the fall in women's participation in the Indian context. In particular, there is little evidence that there has been a significant deterioration in the measurement of women's work that can explain the decline witnessed over the 2000s. Moreover, mis-measurement is more likely to take place in the context of work in the household. Thus, underreporting is likely to happen in the context of home-based work, but not because women are 'hidden' in wage and salaried employment outside the home in offices and factories.

The third explanation for the fall in female labour force participation in India is rising household incomes. Since spousal income has increased (e.g. due to the construction boom), poor women, particularly those in rural areas, have withdrawn from the drudgery of agricultural labour and menial jobs. Evidence from the NSS survey rounds does reveal that the participation rates of women in poor, rural households have decreased the fastest during the 2000s. However, given that non-farm rural employment is scarce, the opportunity cost of not working is low, and therefore, there are few jobs that are able to pull women into the labour force in rural areas of India (unless they are able to access work near where they live). Dasgupta and Verick (2016), Chatterjee et al. (2015) and others highlight the lack of jobs available and accessible for women in India, especially in rural areas, as a critical dimension, which needs to be focused as part of the policy response.

Many commentators argue that the decline in female labour force participation in India is part of the development process. This view is linked to the notion of a U-shaped relationship between female labour force participation and economic development, which proposes that female labour force participation first declines during the initial stages of economic development and then increases later as the country develops further.

There is, indeed, (weak) evidence of a U-shaped relationship in a cross-sectional mapping of global data (ILO estimates for countries without data) (Dasgupta and Verick 2016). However, despite this apparent non-linear correlation between per capita GDP and the FLFPR, empirical findings based on panel data have questioned the validity of the U-shaped hypothesis (e.g. see Gaddis and Klasen 2014). Moreover, rising levels of female labour force participation at higher income levels are driven by Europe and few other advanced economies. If Asia is taken as a separate region, there is no evidence of a U-shaped relationship; rather, countries are most likely to converge at a level, which still represents a considerable gender gap even at the highest income levels (such as witnessed in Korea and Japan) (Dasgupta and Verick 2016). A U-shaped relationship is, therefore, not borne out by the data and should not be assumed as a standard process of development.

Looking to the future, labour force projections by the ILO indicate that the female labour force in India will grow by just 35.5 million from 2016 to 2030, compared to an increase of 86.6 million for men over the same period. As a result of this trend, the female labour force participation rate in India is projected to rise from 26.9 per cent in 2016 (estimate) to 28.3 per cent in 2030. These projections indicate that, unless policy results in significant changes, overall labour force participation rates and, hence, India's economic growth potential, will remain below par. This situation will hamper efforts to achieve the goals set out in the 2030 Development Agenda, particularly SDG 8.

2.2 Persistence in Informality Masks Different Trends in the Indian Labour Market

Informality is one of the defining features of the Indian labour market. In 2011–12, informal employment, which includes both workers in the informal sector and informal workers in the formal sector, represented around 92 per cent of all employment. Looking at differences between the

sectoral and employment definitions of informality indicates two diverging trends.

Firstly, the share of workers in the unorganized sector fell from 86.3 per cent in 2004–05 to 82.7 per cent in 2011–12. At the same time, the share of informal workers in the organized/formal sector (i.e. workers without access to social security) has increased significantly through the greater utilization of contract and other forms of casual labour. The share of contract labour (workers engaged through contractors and not directly by the employer) in organized factory sector increased from 15.6 per cent in 1999–2000 to 34.7 per cent in 2011–12. Consequently, formal employment in the organized sector increased by just 1.3 million from 2009–10 to 2011–12, while informal employment in the organized sector grew from 34.1 million to 44.1 million over the same period (Fig. 20.2).

Most of the debates and assertions made about informality in the Indian labour market stops at the dichotomy between unorganized and organized sector workers. However, this fails to recognize that informality is multi-faceted and heterogeneous, depending on where the work takes place.

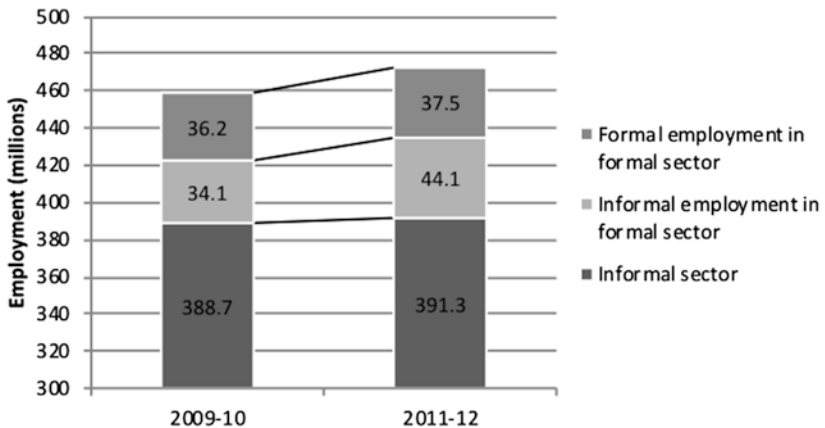


Fig. 20.2 Trends in informal and formal sector employment in India, 2009–10 and 2011–12. Source: National Sample Survey, Employment and Unemployment Survey, 66th and 68th Rounds; author's calculations

The International Conference of Labour Statisticians (ICLS) 2003 framework⁴ to distribute workers by employment status and production units shows that, in 2011–12, the largest group was own-account workers (32.3 per cent of all workers), followed by informal employees in the informal sector (30.0 per cent) and contributing family workers (17.9 per cent) (Table 20.1). Informal workers in formal sector enterprises (enterprises with more than ten workers) represent 9.6 per cent of all workers, compared to 7.0 per cent for formal workers in the same type of units. These five categories account for 96.8 per cent of workers, with the other segments accounting for marginal shares.

The trends in India, particularly the increasing informal employment in the formal sector, are a major challenge, as also witnessed in other countries. The majority of workers in India continue to be self-employed as

Table 20.1 Where are India's informal workers? Distribution of workers by production unit and employment status, 2011–12 (all ages) (%)

<i>Employment status</i>	<i>Informality</i>	<i>Production units</i>			<i>Total employment</i>
		<i>Formal sector enterprises</i>	<i>Informal sector enterprises</i>	<i>Households</i>	
Own-account workers	Informal		32.3	n.a.	32.3
	Formal	0.5			0.5
Employers	Informal		1.3		1.3
	Formal	0.1			0.1
Contributing family workers	Informal	0.1	17.9		18.0
Employees	Informal	9.6	30.0	0.8	40.4
	Formal	7.0	0.4	0.01	7.4
Members of producers' cooperatives	Informal		n/a		n/a
	Formal				n/a

Source: Calculated from NSSO's Employment-Unemployment Survey, 2011–12, based on the ICLS 2003 framework

Note: Cells shaded in dark grey refer to jobs, which, by definition, do not exist in the type of production unit. Cells shaded in light grey refer to formal jobs. Un-shaded cells represent various types of informal workers. *n/a* data not available

⁴In 2003, the 17th ICLS developed a framework and guidelines on measurement that provides a broader conceptualization of informality, which categorizes informality depending on the employment status and the place of work.

own-account and contributing family workers, which has been quite a stable feature of the Indian labour market for decades (stability is at the aggregate level—at the individual level, there are transitions between self-employment and casual employment; see, for instance, Karan and Selvaraj [2008]).

As noted earlier, the share of workers in smaller firms (i.e. what constitutes the ‘unorganized sector’) is decreasing. However, the Indian economy is dominated by micro- and small enterprises, and as employers, these firms find it most challenging to provide better working conditions and access to employment benefits and social security, which constitute formal employment. Based on data presented in Asian Development Bank (ADB 2009), Hasan and Jandoc (2013) show that, in 2015, almost 85 per cent of workers in the manufacturing sector (or 37.5 million out of 44.6 million) were employed in enterprises with less than 50 workers.

Due to productivity differentials, there is an imbalance between output and employment in the Indian economy. In manufacturing, the organized sector accounts for over 80 per cent of output, while the unorganized sector engages 80 per cent of employment and represents 99 per cent of all establishments (Ghani et al. 2015). Nonetheless, there are some positive trends: Goldar and Sadhukhan (2015) find that, from 2004–05 to 2011–12, employment in organized manufacturing grew by almost 7 per cent per annum, a notable acceleration in comparison to the previous period. In contrast, employment in unorganized manufacturing increased by just 0.13 per cent. They argue unorganized manufacturing is shifting away from self-employment to establishments.

Overall, informality represents one of the key challenges in most countries, including India. The task at hand for policymakers is to ensure that job creation leads to more formal employment, which provides access to social security and employment benefits.

2.3 Can Indian Manufacturing Be the Engine of Economic Growth and Jobs?

Development has been characterized by the movement of resources and workers out of agriculture into manufacturing. However, this path hasn’t been witnessed uniformly across countries, including India. In these economies, industrialization has failed to drive output and employment in the manufacturing sector as witnessed earlier in more advanced economies. Moreover, the peak in the share of manufacturing in either output or

employment is being reached earlier and earlier over time. Many low- and middle-income countries, including India, are service-led, from both an economic growth and jobs perspective. This experience has been denoted ‘premature deindustrialization’ (Dasgupta and Singh 2006; Rodrik 2016), reflecting that a decline in the share of manufacturing in output and employment should only take place once an economy has moved into high-income status.

As discussed in Verick (2016), a common view is that India has prematurely deindustrialized. In 1950, the share of manufacturing in gross domestic product (GDP) was just 10 per cent in India, while the share was only slightly higher in China at 14 per cent (Szirmai 2012). By 1980, the share of manufacturing in GDP in China had reached 40 per cent, while in India it was just 17.4 per cent. Over the following decades, the share of manufacturing in Indian output fluctuated around 16–17 per cent. Moreover, by 2017, the share in India had fallen to 15.0 per cent.⁵ For many commentators, this trend is unequivocal evidence of deindustrialization: Amirapu and Subramanian (2015) argue that the issue is not whether India is deindustrializing, but the fact that India never industrialized to begin with.

In terms of the labour market, the manufacturing sector in India represented 12.6 per cent of total employment in 2011–12, which is slightly higher than the longer-term average evident from earlier data points. However, it should be noted that, after manufacturing employment declined from 2004–05 to 2009–10, it rose quite substantially, by nine million from 2009–10 to 2011–12 (in net terms). By 2011–12, the share of employed women in manufacturing reached 13.4 per cent, up from 9.3 per cent in 1993–94. Despite the progress from 2009–10 to 2011–12, the share of workers in manufacturing sector in India is lower than that found in Bangladesh and Sri Lanka (Verick 2016).

Rather than moving into jobs in manufacturing, low-skilled workers in rural areas of India swapped their livelihoods in agriculture for higher paid employment in construction. By 2011–12, the construction sector accounted for 10.6 per cent of all workers, up from just 3.1 per cent in 1993–94. Over a decade, the numbers of workers in construction rapidly increased from 17.5 million in 1999–2000 to 44.1 million in 2009–10. During the same period, the numbers of workers in manufacturing increased from 44.1 million in 1999–2000 to 50.7 million in 2009–10, while in services the number of workers went up by 22.1 million (from 94.2 to 116.3 million).

⁵World Bank, World Development Indicators, accessed on 28 July 2018.

Despite the picture presented by the shares of GDP and employment in manufacturing, it is premature to assume that Indian manufacturing has peaked and displaying a terminal decline and deindustrialization (Verick 2017). In this debate, it is often overlooked that the manufacturing sector has grown, but the services sector has grown faster, resulting in an increasing share for the latter. India's services sector represents the largest share of output but a relatively low share of employment. In general, comparing shares can be misleading: even if both sectors are growing, any differential will ensure that the shares move in opposing directions. For this reason, growth rates should also be analysed when identifying sectoral patterns; looking at just shares can be misleading.

The comparison of Bangladesh and India shows how misleading 'premature' conclusions can be based on trends in GDP and employment shares (see also Verick 2017). From 1991, manufacturing value added (constant 2010 US\$) in Bangladesh and India grew at a remarkably similar rate (VA had increase in both countries by around 400 per cent in 2010 from the levels witnessed in 1991).⁶ However, from 2010 onwards, the growth rate in Bangladesh outstrips that found in India. Thus, evidence of a relatively weaker manufacturing sector in India only emerges over the last five years or so.

The services sector has followed very different trajectories in the two countries. From 1991 to 2017, value added in the services sector in India grew by over seven times, while in Bangladesh it multiplied by less than four times. As a consequence, the share of the manufacturing sector in GDP in India has actually declined (from 16.3 per cent in 1991 to 15.0 per cent in 2017), while the share of the services sector has increased (from 35.5 per cent in 1991 to 48.9 per cent in 2017).

Trends in sectoral shares are, therefore, deceptive: manufacturing in India has grown (albeit with a slowdown over the last five years or so), but it has been outpaced by the services sector. Thus, India's service sector has been the star performer and if anything, it is the outlier in comparison to other countries. The broader challenge is the ability of the Indian services sector to create jobs. From 1999–2000 to 2009–10, employment in the services sector increased from 94.20 to 116.34 million. By 2011–12, the services sector accounted for just 26.8 per cent of employment, despite being the key driver of economic growth, accounting for more than half of economic output.

⁶World Bank, World Development Indicators, accessed on 29 July 2018.

2.4 *Are Indian Labour Laws to Blame?*

India's labour laws have often been blamed for the lack lustre performance of the manufacturing sector. Labour laws in India are notoriously complex: the 44 central laws and myriad of state laws date back, in some cases, to the colonial period. The laws are highly prescriptive, outlining specific duties and provisions. The Industrial Disputes Act 1947 (the IDA) has received most of the attention and the blame: the provisions of the IDA that require an industrial establishment (covering factories registered under the Factories Act, 1948, plantations registered under the Plantations Act, 1951 and the mines registered under the Mines Act, 1952) with more than 100 workers to seek prior approval from the appropriate government for the dismissal of even one worker or closure of the establishment (Chapter VB) is deemed as a key barrier to job creation.

Using legislative amendments, some contributors find a negative impact of IDA on employment (Besley and Burgess 2004; Ahsan and Pagés 2009; Hasan and Jandoc 2013; Ramaswamy 2014), while other scholars have debated the methodology (see, in particular, Bhattacharjea 2006) or not found the same evidence or the reverse (e.g. lack of a correlation between labour market regulations and the growth of small informal firms in the tradable manufacturing sector found by Ghani et al. [2015]). The results of Deakin and Sarkar (2011) do not support the hypothesis that more pro-worker labour laws in Indian states lead to higher unemployment. In fact, this study suggests that the causality runs the other way: the economy impacts labour laws.

It is usually said that India has some of the strictest labour laws of any country. However, using Organisation for Economic Co-operation and Development's (OECD's) employment protection legislation methodology shows that China and Indonesia are ranked above India. In India's case, the ranking is driven by the notification requirements for individual dismissals as required by the IDA for enterprises with more than 100 workers (apart from those states with a different threshold such as Rajasthan, which raised it to 300 workers). Like Indonesia, there are no further requirements for collective dismissals. In Indonesia, the ranking is due to the high level of severance pay rather than the permission required for dismissal (as per the IDA).

The labour law debate in India is based on the premise that these regulations act as key constraints to production and employment decisions in a firm. In reality, enterprises are impacted by a range of economic and

regulatory processes, which change incentives. As covered in the surveys of the World Bank (Doing Business, Enterprise Surveys), important dimensions include corruption, infrastructure, taxation, skills and access finance and credit. Results from the World Bank Enterprise Survey in 2014 show that more Indian firms identify corruption as a major obstacle for their business (almost 20 per cent), followed by electricity (around 15 per cent). Of the enterprises surveyed, 43.4 per cent were expected to give gifts to get an import licence. Moreover, the need to give a bribe was much higher in small firms (see <http://www.enterprisesurveys.org/data/exploreconomies/2014/india>. Accessed on 23 July 2018).

The three labour market dimensions highlighted here (declining and low female labour force participation, persistence and heterogeneity of informality, and uncertain process of structural transformation) represent core issues for Indian policymakers. Due to the complexity of these employment challenges, there is no single policy response. Rather, governments, social partners and other stakeholders need to consider various strategic interventions that address these problems both comprehensively and in a targeted fashion.

3 WHAT ROLE FOR EMPLOYMENT POLICIES?

The normative frameworks and experiences of the International Labour Organization (ILO) around the world provide some insights into effective approaches on employment policy. The objective of full and productive employment was stated in the ILO Constitution and the 1944 Philadelphia Declaration, with the Employment Policy Convention, 1964 (No. 122) further articulating this goal. In addition, all ILO work on employment derives its current mandate from the Global Employment Agenda (2003), the ILO Declaration on Social Justice for a Fair Globalization (2008) and the conclusions of the Recurrent Item Discussion on Employment, which took place most recently in 2014 at the International Labour Conference.

More specifically, the ILO's Convention on Employment Policy No. 122 (1964) represents a global reference for employment policy and is one of the four governance Conventions under the 2008 ILO Declaration on Social Justice for a Fair Globalization. The Convention requires this policy to be positioned as a major economic goal within the national policy agenda. It also calls for tripartite consultations. The conclusions concerning the Second Recurrent Discussion on Employment, which took place at the International Labour Conference in 2014, recommend

member states to promote a comprehensive employment policy framework based on a menu of policy choices, which include pertinent issues covered in this chapter.

Many countries have developed national employment policies (NEP) that offer a comprehensive framework to support a broad set of goals, including those related to issues highlighted earlier (e.g. gender, informality and structural transformation). NEPs require strong coordination and social dialogue to be effective. Despite ratifying Convention 122 in 1998, the Government of India has yet to adopt such an approach, though different dimensions are covered by other policies, most prominently by the National Skill Development and Entrepreneurship Policy, 2015. A number of countries in the region have formulated and adopted NEPs, including Sri Lanka and Nepal.

These broad, comprehensive approaches to employment policy, as articulated in Convention 122 and the most recent recurrent item discussion on employment at the International Labour Conference, are highly relevant to understand the response to the challenges outlined earlier. However, taking a comprehensive approach does not mean that everything is important and that all policy dimensions should be addressed at the same time. Rather, it is essential that strategic policy entry points are found within a comprehensive understanding of the issues surrounding employment challenges in a diverse and complex country such as India.

3.1 Active Labour Market Policies for Youth

Active labour market policy (ALMP) is one specific policy domain, which has received considerable attention in the OECD countries for a number of decades. In recent years, most low- and middle-income countries have also formulated and implemented a vast number of ALMPs (though this term is less used outside the OECD context). ALMPs are measures that directly help the unemployed (also the underemployed and inactive) by impacting labour demand and supply and the interaction between the two. These interventions seek to reduce the risk of unemployment (getting individuals jobs) and increasing earnings capacity (through better returns to skills). In both advanced and developing economies, ALMPs target youth, recognizing that periods of unemployment during the early years of a young person have a long-lasting, negative impact on their labour market outcomes for decades to come (what economists call the ‘scarring effect’) (Cazes and Verick 2013).

ALMPs cover five categories of interventions (see Cazes and Verick (2013) for further details):

1. job search assistance/other employment services that are provided by public employment services and private agencies;
2. training schemes that consist of vocational, on-the-job, programmes that target the long-term unemployed, laid-off workers, youth and other vulnerable groups along with special incentives for apprenticeships;
3. job/wage subsidies, which include measures to protect jobs such as work-sharing schemes and interventions that promote hiring such as social security exemptions and one-off payments for taking on long-term unemployed and youth;
4. public employment programmes that cover not only traditional public works programmes but the new generation of public employment schemes and employment guarantees; and
5. entrepreneurship incentives, which typically consist of a combination of training and micro-credit.

In India, many of these programmes exist though with gaps in terms of coverage and implementation. For example, the revitalized National Career Service aims to improve the match between jobseekers and vacancies, while the plethora of training programmes available under the National Skill Development and Entrepreneurship Policy and other government programmes strive to improve the employability of jobseekers. However, there is no evidence to suggest that these initiatives have yet been a ‘game changer’.

In India, as in most middle-income countries, there are few subsidies in the form seen in OECD countries (i.e. wage and hiring subsidies). However, the Government of India does provide subsidized payments to apprentices (under the Apprenticeship Act). At the same time, India has the largest statutory public employment guarantee in the world, the Mahatma Gandhi National Rural Employment Guarantee Scheme (implemented since 2005), which serves ultimately as a wage floor, particularly for women, and social protection measure for poor households in rural areas.

India has made some progress in innovating ALMPs. However, the larger challenge is that the impact of such policies is rarely of a large magnitude (apart from, perhaps, MGNREGA). Moreover, not enough is

known about the impact of many policies and programmes in India, which would require more systematic monitoring and evaluation. This is essential if resources can be used more efficiently and effectively, while recognizing that ALMPs only provide a partial solution.

3.2 *Policies to Promote Better Employment Outcomes for Women*

As highlighted in Dasgupta and Verick (2016), a complex set of policies are needed to promote female labour force participation in a country, such as India, covering six pillars: (a) inclusive growth and job creation; (b) education and skills development; (c) support for reducing the time burden; (d) transport and infrastructure; (e) legal rights and protection; and (f) measurement.

Firstly, a crucial policy dimension is the demand side, that is, the creation of jobs and entrepreneurship opportunities for women. In India, the majority of jobs have been created in urban areas in recent decades, as noted earlier, while employment has fallen in rural areas. For this reason, it is critical that more emphasis is placed on promoting employment-rich investment in smaller towns and locations, which would lead to the creation of jobs that women are able to access. Given the poor investment environment in these places, the market hasn't provided the right incentives for such investments to take place. Therefore, better infrastructure and specific tax and other monetary incentives will be needed to spur investment in these locations.

Secondly, as found in all countries, better labour market outcomes are dependent on education and skills development (e.g. see, Cazes and Verick (2013) for a discussion on the important role of education in determining employment outcomes in emerging economies). However, there isn't a simple, linear relationship between educational attainment and women's participation in the labour force. Indeed, the lowest level of participation is found for women with secondary school education. Thus, a fundamental policy goal should be to increase access for girls and young women beyond secondary schooling, which provides the best foundation for making a successful transition from school to work. As outlined in the National Skill Development and Entrepreneurship Policy, 2015, greater emphasis is also needed on vocational education and training, which, in turn, increases their occupational choice.

Thirdly, even if women have the necessary qualifications and skills, they face difficulties in working outside the home because of their traditional

responsibilities as prime caregivers for children and elderly parents. Measures are required to improve the provision of childcare and elderly care through public policy and through sharing of care responsibilities between women and men at the household level. Maternity benefits are critical, as well as policies that support married women's work. Flexible work arrangements (with formal employment benefits) should be expanded, where possible. The improvement of basic infrastructure (drinking water, sanitation, electricity and cooking fuel) would contribute greatly to making available more time for women's paid work.

Fourthly, a major challenge for women in India is to be able to access jobs in a safe and secure manner. Further efforts are needed to expand public transport to facilitate the movement of women, especially the poor, in addition to the provision of infrastructure, such as public toilets and street lighting, to improve the safety of women when travelling to work. Safety in the workplace can be improved by placing closed-circuit cameras, which can act as deterrent to harassment and violence (Sudarshan 2014).

Fifthly, to promote women's participation in the labour market and economy, in general, a range of legal rights need to be strengthened, including the right to own property and land (as well as inheritance rights), protection from violence and sexual harassment, equal pay, safe working conditions, non-discrimination and representation. India, like most countries, has many rights enshrined in various laws. However, a major challenge is the enforcement (and awareness) of legal rights. As found in all countries, including India (e.g. see Deshpande et al. 2015), gender-wage gaps persist, which act as a disincentive for women to participate in the labour market. More effective implementation and enforcement of legal provisions for equal remuneration are needed. Better working conditions will attract women to join the labour market and take up employment outside the home. Access to social protection is critical to not only support household incomes but also to encourage mobility.

Finally, given the challenge of measuring women's work, which tends to be invisible, statistical offices need to improve collection of data on different dimensions of women's participation in the labour market. Important instruments to achieve this include time-use surveys. In addition, better trained enumerators (and more female enumerators) will help improve the accuracy of surveys. More broadly, the Resolution of the 19th International Conference of Labour Statisticians in 2013 provides a broader foundation for a far more comprehensive approach to measuring women's work.

4 CONCLUDING REMARKS

As a large and diverse country, India has made important progress in recent decades, as evidenced by strong economic growth, rising wages and falling poverty. However, despite these trends, the Indian labour market continues to pose a number of complex challenges. This chapter outlines three key aspects: low and declining female labour force participation rate; persistence and heterogeneity of informal employment; and an uncertain structural transformation process. In response, India has utilized a range of policy interventions, which offer both comprehensive frameworks (such as the National Skills Development and Entrepreneurship Policy, 2015) and targeted measures (e.g. National Career Service).

To improve effectiveness of policies and programmes, greater investment in monitoring and evaluation is needed to guide the evolution of interventions. Moreover, given the federal structure and diversity within India, employment-centric policies and programmes will increasingly need to be implemented at the state, district and local levels. To respond to the myriad of challenges, decentralized solutions are critical. For example, a pro-employment industrial policy for an eastern state, Odisha, should have a different focus than a state that has been industrialized for a longer period (e.g. Tamil Nadu). Comprehensive employment policies at the state level would arguably have greater traction in India due to the challenges for coordination at the federal level.

Globalization, technology, demography and climate change are key dimensions to the future of work being discussed by the ILO and in other fora. New forms of the employment relationship have emerged with the gig economy, which require policy innovations and updating of labour market institutions. These megatrends, which are impacting the world of work, are also affecting India, though in different contexts than seen in advanced economies.

Responding to these issues, employment policies in India need to respond to both current and emerging challenges. However, rather than fearing the impact of automation, namely robotics and artificial intelligence, policymakers should focus on how conditions can be improved to ensure that India, and its millions of workers and enterprises, can benefit from changes being witnessed around the world. For example, proactive efforts are needed to improve technological adoption in micro, small and medium enterprises, which would improve their productivity and

competitiveness. Technology can improve occupational safety and health, and hence the quality of employment.

Overall, policymakers in all countries, including India, need to prioritize employment as an objective in economic and social policies. This requires utilizing both comprehensive employment policy frameworks and targeted strategies, such as ALMPs. Whatever the approach, governments need to invest in more monitoring and evaluation to learn about ‘what works’ and to adapt policies and programmes to deliver decent work for the maximum number of its citizens. For these reasons, the participation of representatives of employers and workers is a critical element to promote social dialogue and formulation of more effective policies and programmes.

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Dynamics of Reforms of Labour Market and the Industrial Relations System in India

K. R. Shyam Sundar

I INTRODUCTION

The institutional framework including the legal framework of an industrial relations system (IRS) in a country is determined by a variety of factors such as historical influences, constitutional perspectives and aspirations of the society, the international treaties that a country has signed, the balance of power in the larger society and as reflected in the IRS, developments and positions in the economic and political systems, and so on. The framework undergoes changes on account of changes within the IRS and also due to those occurring in the other sub-systems of the social system such as economic, political systems, and in this sense the reform process is dynamic.

The legal framework in the IRS during the colonial period was designed in response to the dynamics of the colonial regime such as political and labour agitations, recommendations of inquiry bodies and so on. The policymakers in the Independent India designed the governance of IRS

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with a strong legal framework and it grew stronger over the planned economy period. Despite the recommendations of a few intellectual bodies¹ the legal framework remained virtually unchanged when economic reforms set in.

Since 1991 the government has undertaken significant economic reforms and demands for reform of the legal and labour administrative framework concerning IRS have been made by employers among others. The focus of reforms during the economic liberalisation period has shifted from classic IR issues such as reforming the industrial disputes settlement machinery to labour market issues such as labour flexibility. In the post-reform period, several intellectual bodies were constituted to recommend changes and the central government has been talking of labour law reforms at various points of time. The reform processes concerning IRS have been met with stiff resistance by the working class and they have made counter-demands to those made by employers. As a result, the central legal framework, save for some changes in some laws, remains virtually unchanged (at the time of writing, i.e. March 2019). However, some significant reforms have taken place at the *regional* level.

Why have the central labour laws not changed even though institutions in the IRS have demanded for reforms and various bodies have made recommendations for the same? Why do state governments succeed in carrying out some reforms when the central government fails? Even at the state level some laws once enacted remain rigid and reforms don't occur with regard to them. What are the dynamics involved in the story of reforms? I seek to address these questions in the chapter.

The Oxford Advanced Learners' Dictionary defines "reform" as "change that is made to a social system, an organization, etc. in order to improve or correct it". I define 'reforms' as including the measures taken by the government to change or correct the existing labour laws and also to introduce new laws and regulations. It will be well-nigh impossible to talk of reform dynamics concerning all issues in the IRS. I concentrate on three issues in this chapter, that is, trade union recognition under the Trade Unions Act, 1926 (TU Act); dispute settlement machinery, collective bargaining and labour flexibility under the Industrial Disputes Act, 1947 (ID Act); and the Contract Labour (Regulation and Abolition) Act, 1970 (the Contract Labour Act).

¹ I use this as an umbrella term to include Commissions, Committees, Councils, Taskforce, and so on though at the appropriate places the exact term will be used.

The chapter is divided into four sections. Section 2 discusses briefly the impact of intellectual bodies on it during the colonial period. Section 3 describes the institutional framework that was designed immediately after political independence which serves the basis for reforms in future. Section 4 discusses the reform efforts during the planned economy period. Section 5 discusses reform efforts and mentions reforms during the post-reform period. Finally, I offer conclusions.

2 IRS IN THE COLONIAL PERIOD

The trade union movement assumed modern character and sustained growth since post-World War I. The dynamics of colonial regime promoted close interface between trade union and political freedom movement as freedom movement needed a wider constituency for its struggles and trade union movement (being in its infancy) needed powerful representatives to negotiate with the recalcitrant employers (both colonial and Indian). Political association with and the significant role of ‘outsiders’ (socially minded people, lawyers, political leaders, religious leaders, etc.) in trade unions were significant features of the trade union movement in the colonial period. The Trade Unions Act, 1926, the Workmen’s Compensation Act, 1923, and the Trade Disputes Act, 1929, are some of the laws that were enacted during the 1920s largely due to labour agitations, especially by the communists (see Morris 1965; Mitchell et al. 2014). State intervention during the colonial period gradually increased since the mid-1920s and it peaked during World War II (see Shyam Sundar 2009b, for a comprehensive discussion on the role of state and other aspects of IRS during the colonial period). The reports of the intellectual bodies constituted during the colonial period impacted the legal framework then and even later during the post-independent period.

The Royal Commission on Labour (RCL) was appointed by the British government in 1929 to enquire into and report on the conditions of labour, standards of living of workers and employment relations in the industrial undertakings and plantations in the British India and make recommendations. It submitted its report in 1931 with 357 recommendations (RCL 1931). The Commission’s recommendations had significant impact on the legal framework and labour institutions in the colonial India (see FNCL 1969; Menon 1956; Mitchell et al. 2014). For example, it is reported that 19 of the 24 labour laws legislated during 1932–37 were based on RCL’s recommendations (Menon 1956, 557–558). The best

example here is the passage of the Payment of Wages Act, 1936 (Ibid.). More significantly, the Commission's recommendation on the 'competency of labour legislation', that both the central and the state governments can legislate on labour though the latter with prior concurrence by the former has been retained in both the Government of India Act, 1935, and the Constitution of India in 1950 (Menon 1956, 556).

Apart from the RCL, several committees like the Bombay Textile Labour Enquiry Committee (1940) and the Labour Investigation Committee (LIC), 1946 (also known as the Rege Committee), inquired into the conditions of work among others and their reports served as the informational base for the First National Commission on Labour (FNCL) (1969). The mapping and assessment of the contract labour system by the RCL and these bodies provided a valuable information base for the legislative reforms (like abolition of contract labour) carried out later relating to contract labour (see Labour Bureau 2001). In fact, the FNCL (1969, 418) observes that as a result of the findings of these bodies on the contract labour system, the scope of the definition of 'worker' in the Factories Act (1948), the Mines Act (1952) and the Plantations Labour Act (1951) was enlarged to include contract labour.

Three factors become evident here. One, irrespective of the 'political reasons' for which RCL was constituted, it was a starting point for resorting to an 'intellectual body system' to interact with all stakeholders, collect information and create a qualitative and statistical base. Two, in the absence of a legal framework, the reports of these bodies proved an invaluable base for framing labour laws and policies. Three, thanks to the *void* in the legal framework, the recommendations of these bodies had considerable impact in framing the laws on industrial relations. As we noted earlier, their reports proved valuable even after Independence.

3 IRS IN THE INDEPENDENT INDIA

Owing to several reasons such as power imbalances in the IRS, the philosophy of a welfare state and the dynamics of economic planning requiring uninterrupted production (industrial peace), the policymakers preferred state intervention to collective bargaining in determining the 'rules' of the IRS in India. The labour laws were made in the context of this philosophy and in the framework provided by the Constitution of India and ILO Conventions (see Menon 1956; FNCL 1969). State interventionist system was complemented by tripartism (proceedings in the

Indian Labour Conference [ILC] and the Standing Labour Committee [SLC] at the national level) and Codes of Discipline and Conduct and other moral instruments (see Shyam Sundar 2009b, for a full description of the institutional framework of IRS). It is important to note in passing that the tripartite deliberations held during the formative years after Independence had significant impact in determining the labour policy and framing/amending the labour laws (see FNCL 1969; Singh 1998).

The central labour laws were majorly concerned with five subjects, that is, registration of enterprises and safety and conditions of work, trade unions and industrial disputes, wages and other compensation components, social security and social welfare. Given the focus of our chapter, I outline the relevant legal aspects concerning the issues outlined earlier.

The TU Act merely provides for voluntary registration of trade unions and prescribes the procedures for it, elaborates the contents of the Constitution of the to-be registered unions, and defines liabilities and rights (such as immunities from civil and criminal conspiracies for legal industrial actions) of trade unions. But it does not provide for compulsory recognition of trade unions (and the method for determining it) by the employers and the obligation of the employer to negotiate with trade union(s).

The ID Act primarily seeks to (a) provide for officers and institutions to prevent (Work Committee, Grievance Redressal Machinery) and resolve industrial disputes (collective bargaining, conciliation, voluntary arbitration, compulsory adjudication), (b) define legality of work stoppages and (c) regulate employers' industrial actions like lay-offs and retrenchment of workers in, and closure of, establishments. Further, Section 10(1) of the Act provides "discretionary" power to the government to refer or not to refer an industrial dispute for compulsory adjudication. The discretionary power vested with the government gives enormous power to the political party in power over employers and unions (see FNCL 1969 for a debate on the abuse of this power by the government; see also Ramaswamy 1984).

The scheme and the philosophy of the Act has been consistent with the labour policy of the government and the prevalent consensus amongst the tripartite actors that state intervention in terms of compulsory conciliation and adjudication will be kept on a higher pedestal and collective bargaining on a lower pedestal, and as the IRS matures collective bargaining could in the long run replace compulsory adjudication (Ramaswamy 1984; Singh 1998; Myers and Kannappan 1970).

Chapter V-B of the ID Act (as amended in 1982) requires all industrial establishments (registered factories, plantations and mines) employing

100 or more workers to secure *prior* permission from the appropriate government, issue notices to the workers affected and unions concerned before effecting lay-offs and retrenching of workers and closure of establishments and compensate the affected workers as per the law.

The Contract Labour Act empowers the government to abolish and regulate contract labour and applies to contractors and the principal employers (user enterprises) employing 20 or more contract workers. The government can abolish contract labour in any process, operation or other work in any establishment if they are incidental or necessary for the establishment, perennial in nature, ordinarily performed by regular workers and sufficient to employ full-time workers (see Section 10(1) of the Act).

4 REFORM JOURNEY DURING 1947–91

4.1 *Legislative Reform Exercises and Giri Approach Controversy*

In 1947, the central government amended the TU Act to afford protection to both employers and trade unions against unfair labour practices and provide for compulsory recognition of representative unions. This was a first major initiative after Independence by the central government to strengthen trade unions. However, the amendments did not come into effect as the government failed to notify them as required (Kennedy 1966).

In 1950 the central government introduced two Bills, a Labour Relations Bill and a Trade Union Bill, to provide for union recognition and protection. Labour Courts could adjudicate and direct employers to recognize a trade union as per law. The laws made collective bargaining compulsory under certain conditions described by the law. The Select Committee to which these Bills were referred made some minor changes to the drafts and recommended their passage. The Bills lapsed as the tenure of the Parliament ended prior to the First General Elections during 1951–52 (see Kennedy 1966, 41–42; Myers and Kannappan 1970, 143). V.V. Giri, the then Labour Minister, favoured collective bargaining and argued stridently that compulsory adjudication in the ID Act significantly weakened the growth of collective bargaining (this argument is known as ‘Giri approach’) and desired reintroduction of the 1950 Bills. However, trade unions and the state labour ministries opposed Giri approach, and he resigned as the Labour Minister in 1954 (Myers and Kannappan 1970, 320–325).

It is important to understand both the reasons for the defeat of Giri approach and the labour policy orientation of the central government. It was widely argued that (a) giving primacy to collective bargaining could upset economic planning, (b) trade unions were not powerful to exercise collective bargaining, (c) communists could capitalize on workers' grievances and grow at the cost of other unions and (d) the labour ministries wanted to retain their firm control on labour relations as their discretionary power to refer industrial disputes for adjudication under the ID Act gives them substantial power over unions and employers and they would lose if collective bargaining was to replace compulsory adjudication (see Myers and Kannappan 1970, 321; see also Kennedy 1966; Ramaswamy 1984).

Perhaps as a compromise between the warring opinions and to plug the hole of not legalizing union recognition, the Code of Discipline framed during the 15th Session of the ILC (11–12 July 1957) defined the guidelines for *voluntary* recognition of trade unions by employers (see Venkata Ratnam 2006; Singh 1998 for details) and provided for implementation machinery for the same. The Code has *not* proved to be effective in securing union recognition as it was voluntary (see FNCL 1969; Singh 1998; Venkata Ratnam 2006).

4.2 *The First National Commission on Labour and Other Bodies*

To understand labour conditions and the role of newly designed labour institutions in the context of planned economic development the central government constituted the National Commission on Labour in 1966 (we call it FNCL [1969] to distinguish this from the latter NCL). Following FNCL, several other bodies like the Labour Law Review Committee (LLRW) of Gujarat, 1972, the Sanat Mehta Committee (SMC), 1982, the Law Commission of India, 1987, and the Ramanujam Committee (RC), 1990, made valuable recommendations in reforming the industrial dispute settlement machinery (see Subrahmanya [Undated](#); LCI 1987; GoI 1992, for recommendations of these bodies).

Three concerns inform their recommendations, viz. to create settlement institutions which are *independent* of the government administration to tackle the allegations of abuse of power by the government (read the ruling party and labour administrators), to prevent or pre-empt high litigations and the delays in the delivery of justice arising out of them and to

reform the rather dilatory and frustrating procedural aspects of dispute settlements laid down in the ID Act.

Though differing in contents, their recommendations can be summarized as follows. One, the most common industrial dispute resolution structure includes Labour Courts and Industrial Relations Commissions (IRCs) (at both state and national levels) with original and appellate jurisdictions. A committee went further to subsume the jurisdiction of the High Court in the state IRCs and allow only appeals to the Supreme Court under the Constitution (LCI 1987). Two, independent institutions will perform multiple functions like conciliation, adjudication and certification of union recognition, even enforcement of labour laws (e.g. RC, see GoI 1992), among others. Three, parties can make direct references to the recommended dispute settlement machinery instead of depending on government referral system. An example will suffice to substantiate the above. The FNCL (1969, 32, 391) deliberated on the allegations of 'abuse' of the 'discretionary power' vested with the government under the ID Act in making a reference of industrial disputes to adjudication and also noted the need for an independent conciliation machinery. In view of the need to create a machinery which is at once effective and 'acceptable' and 'entirely independent of administration', it recommended IRCs.

On the issue of the place of compulsory adjudication vis-à-vis collective bargaining, the FNCL observed that while collective bargaining complemented by voluntary arbitration should in the long run replace compulsory adjudication the process had to be 'gradual' and the compulsory adjudication option should be available to unions and employers till such time (1969, 32). But RC made its recommendations for reform of labour laws with a strong thrust on bipartisanship (see a detailed discussion of its recommendations in GoI 1992, 1995; Sen 2013).

With regard to trade unions, the forums' recommendations can be summarized as the following. Registration of trade unions should be compulsory and time-bound (say within 30–45 days of date of application for registration). Raise the threshold for eligibility for union formation from 7 members to 10 per cent or 100, whichever less, subject to a minimum of seven members. On union recognition, the forums which dealt with it were unanimous on the need to provide for compulsory recognition through law and making it obligatory on the employer to negotiate with the recognized trade unions and that an independent body like the IRCs will decide on union recognition certification. However, on the method of determining the bargaining agent, there were no clear-cut recommendations. For example, according to the FNCL, the IRC will decide the representative

character of a union, either by membership verification or, if necessary, by secret ballot open to all employees. The SMC recommended a check-off system for determination of the bargaining agent. The differences between the intellectual bodies and the ambiguous stand taken by the FNCL intensified the differences in the stances taken by various central trade union organisations (CTUOs) and the governments have used this confusion to their advantage by not taking decisive action on the issue of union recognition. For example, the Congress government did not legislate because its [un]official labour wing, the Indian National Trade Union Congress (INTUC), thrived on membership verification method and hence it was not open to recommendations for check-off or secret ballot.

4.3 *The Failed Bills*

The Janata Party during its short tenure (1977–79) introduced a comprehensive bill, the Industrial Relations Bill, 1978. Stringent provisions with regard to trade unions such as cancellation of union registration for guilty of breach of the law, annual declaration of assets by all the office-bearers, severe restrictions on striking by unions, among others, provoked stiff union opposition supported by political parties (Tulpule 1978, 1719; Sen 2013, 472–474). The Bill lapsed due to the collapse of the Moraji Desai-led Janata government.

In the light of learnings from various bodies outlined earlier and arising out of the special tripartite discussions held in the 1980s (which several CTUOs boycotted), the central government introduced the Trade Unions and the Industrial Disputes (Amendment) Bill in May 1988 (in short, the 1988 Bill) in the Rajya Sabha. The Bill outlined the dispute settlement machinery as per SMC and LCI with enlargement of functions of Labour Courts (like registration of bargaining councils and their deregistration subject to some conditions). Some provisions such as conditions for cancellation of registration of trade unions say for illegal strikes or indulging in unfair labour practice when striking legally was tough, restrictions on outsiders in unions, restrictions on strikes including strike ballot and greater emphasis on the check-off system provoked widespread opposition to the Bill from the trade unions (Sen 2013, 525–526). As recommended by the 29th ILC held in 1990 the central government withdrew the aforementioned 1988 Bill.

Discussion: According to the government ‘final decision’ had been taken in the case of 219 of 300 recommendations of the FNCL (see GoI 1976, 108). It is evident that this statistical representation is a farce as the ‘major and important’ recommendations of the FNCL on the industrial

dispute settlement machinery (especially the IRCs) and union recognition were not implemented. The government has pointed out that though some of the major recommendations (like recognition of unions and settlement machinery) were endorsed by the SLC they could not be implemented “because of the *lack of consensus of opinion amongst the trade unions* on these matters” (ibid., 107, emphasis is ours). As noted earlier, the 1988 Bill is officially held to be an outcome of deliberations by the bodies, though several CTUOs boycotted the special tripartite talks including the SMC held in the 1980s. Since RC’s recommendations were not unanimous they were reviewed by a group of five state labour ministers as recommended by the 40th Labour Ministers’ Conference and their report was placed in the 30th ILC held in 1992 (GoI 1992).

The Congress government did not show much interest in legislating on union recognition for several reasons, viz. its labour wing, the INTUC, was dominant among major unions; it was worried that the Communists and Socialists could benefit from union recognition law at the cost of INTUC—in 1950 a massive strike by *Hind Mazdoor Sabha* (HMS), challenging the recognition of INTUC in the cotton textile industry in Bombay, took place. Later-day strikes in the cotton textile industry in Bombay (bonus strikes in 1971 or the 1982–83 strike) revealed considerable support to non-Congress unions and it shook the Congress government (see Sharma 1982, 124; Sen 2013, 431, van Wersch 1992).

The political parties especially the ruling party valued power over the trade union movement to control industrial relations and also to expand membership of its labour wings (see Shyam Sundar 2009a; Ramaswamy 1984, for exposition of this argument and conflicts arising out of this policy). Further, the trade union movement was divided on the method to determine the bargaining agent. The employers’ organizations and the CTUOs like INTUC and National Federation of Labour Organisations (NFLO) supported membership verification method or check-off while All India Trade Union Congress (AITUC), Centre for Indian Trade Unions (CITU), *Hind Mazdoor Sabha* (HMS), Trade Union Coordination Committee (TUCC), United Trade Union Congress (UTUC) and UTUC (Lenin-Sarani, L-S) preferred secret ballot, and *Bhartiya Mazdoor Sangh* (BMS) offered conditional support to secret ballot (i.e. union members only should be the voters while for unions voters will include all workers) (see GoI 1992; FNCL 1969, for older debates). If this crucial IR reform would have been enacted then it would have prevented industrial violence that rocked the 1970s (in Simpson, in the TVS group of companies in

Madras, see Ramaswamy 1984) and the bloody industrial conflicts on trade union rights (e.g. Pricol, Maruti Suzuki, etc.) which shook the confidence of foreign and domestic investors later in the post-reform period as much blood was shed on the issue of denial of union rights and exploitation of contract workers. Though some might be quick to point out the indifference of trade unions to contract workers, recent research shows that trade unions have learnt the bitter lessons of ignoring the interests of non-standard workers (see Shyam Sundar 2011 and the references contained therein).

While trade unions were united on the need for reform of dispute settlement machinery including compulsory adjudication, they were fatally divided on the details of reforms (i.e. IRCs). Some CTUOs like INTUC supported IRCs or similar bodies while others like AITUC, CITU, UTUC and UTUC (L-S) rejected the proposal of IRCs (GoI 1992, 18). They desired that the existing adjudication institutions continue with some modifications like direct reference by trade unions for adjudication and issue of interim orders by tribunals (GoI 1992, 19). Independent unions based in Bombay saw the IRC as a permanent adjudicating body to forestall strikes and did not endorse non-judicial members in the IRCs owing to their lack of judicial skills. Also, unions in general strongly objected to the removal of the right of appeal to the High Court (see Sen 2013; Gonslaves and Damle 1993).

It is significant to note that the Labour Ministers' Group and some CTUOs rejected the proposal of IRCs made by RC (GoI 1992, 18). Not surprisingly, labour ministers and labour administrators did not endorse the recommendations to restructure the dispute settlement machinery as doing so would have deprived them of their vital powers. Recommendations like integrating conciliation within the IRCs, the IRC will be an independent body, workers and recognized unions (thus by implication the employers also) could make direct reference to the judicial bodies strike at the roots of sources of power would have removed the powers of labour administrators and labour ministers; hence they opposed these recommendations. It is well known that political parties use the dispute settlement powers conferred by the laws such as conciliation and discretionary powers vested by the ID Act to refer an industrial dispute to adjudication to not only retain control over the labour context but also promote labour wings of the ruling party and those who support the latter and seek political and economic rents. In other words, on the demand side for the trade unions or the employers, 'access to power' proves to be vitally important in a state interventionist IRS (Ramaswamy 1984, 1988).

It is quite evident that no reform of any sort was possible in the highly divisive institutional context. Employers preferred those that suited their interests of production, productivity, discipline and so on, while trade unions were divided, thanks to the competitive unionism and divisive ideologies. The government did not simply show the political will and the commitment to reforms and allowed the social processes to work without any direction. It cleverly exploited the divisions in the IRS to continue status quo to enjoy the benefits arising out of existing regulations and arrangements.

5 REFORMS IN THE POST-REFORM PERIOD, 1992 ONWARDS

For various reasons including poor performance of a planned economic model and the conditionalities-driven structural adjustment loan by the International Monetary Fund (IMF) (to tackle the foreign exchange crunch caused by the balance of payment crisis in 1990–91), significant economic reforms were introduced in June 1991. Since then, a slew of reforms has been introduced which can be conveniently classified under liberalization, disinvestment (selling of shares of public sector enterprises [PSEs] yet retaining the public sector character of PSEs in lieu of full-scale privatization) and globalization (LDG). From a closed economy India has moved to significantly an open economy in terms of trade, technology and investment (both portfolio and productive).

5.1 Shift in Reforms Debate: From IR to Labour Market

Employers and critics of regulations (including the global financial institutions like the IMF and the World Bank) of IRS and labour market have exerted tremendous and consistent pressure on the central government to carry out labour laws and governance reforms as a complement to the economic reforms described earlier to fully reap the benefits of economic reforms and enhance and sustain the competitiveness of firms in the context of globalization (see [EFI 2000](#); [SNCL 2002](#)). Foreign investors (foreign direct investment [FDI] and foreign portfolio investment [FPI]) demands both fiscal reforms and labour law reforms and pressures the government by their threat of relocation. Any disturbance in the domestic economy such as industrial violence leads to speculation as to whether

existing foreign investors will continue to stay in India or potential investors will view India as a desired destination—such is the sensitivity created or perceived or really existent (e.g. see Doval 2012).

The demands of the employers are many and I summarize here their major demands. One, employers demand labour and wage flexibility. Two, they demand reduced coverage of generic labour laws—for example, the threshold of generic laws like Factories Act, 1948, or the Shops and Commercial Establishments Act should be changed to exclude many small firms from the coverage of these laws and a separate law for small enterprises should be enacted with very limited regulations; the idea here is that enterprises should be allowed to grow in size to reap economies of scale and thus become more productive. Three, functioning of trade unions should be reformed (like removal of outsiders from trade unions) and collective bargaining should be decentralized. Four, labour inspection and administration system should be liberalized to enable them concentrate on their business functions. Five, numerous labour laws should be rationalized and simplified into compact Codes (see Shyam Sundar 2018, for a comprehensive and a critical discussion of labour law and governance reform demands).

Since labour flexibility demand is crucial and hotly debated, I outline the major demands concerning this. Ideally Chapter V-B of the ID Act should be repealed and if not its applicability should be increased from the present 100 workers threshold to at least 300, if not 1000 workers. This will enable the firms to recruit workers as per business demands without fear of permanently retaining them even during slack business times (see Shyam Sundar 2009b, for employers' arguments in support of this demand). The Contract Labour Act should be amended ideally to 'remove abolition' of the contract labour system, that is, allow free employment of contract labour in *all* kinds of jobs irrespective of core or non-core jobs, and this Act should be applicable to large-sized contractors like those employing 50 or more workers.

For the convenience of analysis, I classify the demands of employers into 'hard' or 'core' demands and 'soft' demands. Some issues like labour flexibility directly and greatly hurt the interests of workers in terms of possible loss of jobs or informalization and poverty. Hence, trade unions oppose them stridently. Further they require legislative action which is difficult to come by; hence, they are 'hard' reforms. Liberalization of inspection or rationalization of submission of annual returns, records maintenance, and so on will weaken labour market governance and hence

affect workers' (unions') interests. But they are unlikely to lead to adverse outcomes like loss of jobs. Hence though trade unions oppose them they are not strident about them as they are with respect to 'hard' reforms. Notwithstanding union protests, governments can introduce these reforms through government orders and do not require legislative action; hence, they are 'soft' reforms.

It is clear that the reform agenda in the post-reform period has shifted from the classic issues of compulsory adjudication versus collective bargaining or union recognition to dominantly economic and labour market reforms like privatization, labour law and governance reforms. In another sense, labour flexibility subsumes weakening of collective institutions like trade unions, collective bargaining and strikes and hence IR issues are still relevant. However, it is a complex egg and chicken story!

5.2 Reform Exercises in the Post-reform Period

The central governments, United Progressive Alliance (UPA) I and II and the National Democratic Alliance (NDA) I and II, have constituted a number of intellectual bodies, group of ministers' bodies and so on to discuss the issues of reforms concerned not only with laws but associated issues like inspection, simplification of returns, records and so on to create a sense of direction to the government and also to influence public opinion (see Shyam Sundar 2018 for a comprehensive discussion of these aspects).

But the largest of all these exercises is the constitution of National Commission on Labour (popularly known as the Second National Commission on Labour, SNCL) in 2002. Though the idea of constituting a SNCL was mooted by the ILC in 1992 it was eventually appointed on 15 October 1999 under the chairmanship of Ravindra Verma to "(a) to suggest rationalisation of existing laws relating to labour in the organized sector; and (b) to suggest an 'umbrella' legislation for ensuring a minimum level of protection to the workers in the un-organised sector" (see Venkata Ratnam 2000; Shyam Sundar 2009b for criticisms of the constitution and the Terms of Reference of SNCL). The Commission submitted its report in July 2002 and it is significant that one of the members, Saji Narayanan of BMS, submitted a Dissent Note to the Commission (SNCL 2002).

On the subject of trade union recognition, the Commission preferred a check-off system to secret ballot compulsorily in establishments employing 300 or more workers. It suggested Conciliation, Labour Court,

Labour Relations Commission (much diluted as opposed to the classic IRCs we noted earlier) and *Lok Adalats* (People's Courts) as components of dispute settlement machinery.

The Commission's approach to labour flexibility is clearly revealed in its observation: "The Commission is conscious of the fact that in the fast changing economic scenario and changes in technology and management, which are entailed in meeting current challenges, there cannot be a fixed number of posts in any organization for all time to come. Organizations must have the flexibility to adjust the number of their workforce based on economic efficiency" (SNCL 2002, 364). Following this 'globalization logic', it recommended (a) complete removal of 'prior permission' for lay-offs and retrenchment of workers, (b) raising the limit of applicability of Chapter V-B from the current 100 to 300 workers, and (c) differential but enhanced compensation to affected workers for retrenchment and closures (based on the economic health of the establishments involved). In the case of contract labour, the Commission disallowed contract labour in 'core' functions of an organization save for reasons of sporadic and seasonal demand and allowed it for non-core functions; but the saving clause pertaining to the core functions was perceived by the trade unions to be dangerous. At the systemic level, it recommended for codification and rationalisation of numerous labour laws along major subjects like industrial relations, wages, social security, etc.

Trade unions protested unitedly against its recommendations concerning strikes and labour flexibility among others. While the employers' bodies were not happy either as the Commission did not fully endorse their reform demands, they pressed the government to implement the reforms, affording them labour flexibility (GoI 2002; Rajalakshmi 2001, 2002; Shyam Sundar 2009b). Immediately after SNCL, the first NDA government lost power in 2004 and the United Progressive Alliance in two avatars (I: 2004–09 and II: 2009–14) ruled.

However, several minor recommendations of SNCL like expanding the wage thresholds in laws to include more employees in the wage and social security laws were implemented. The UPA I government also made some noises regarding the implementation of 'hard' labour law reforms—in fact, the then Prime Minister Dr Manmohan Singh spoke against Inspector-Raj and batted for labour flexibility in the 40th ILC (GoI 2005). The National Commission on Enterprises for Unorganised Enterprises (NCEUS) had little to do with the organized sector though it dealt with labour flexibility issues in passing (see Shyam Sundar 2018 for details).

In May 2014, the NDA government with different constituents came back to power and the reform momentum picked up. Several procedural

reforms and even a few substantive labour law reforms like amending the law relating to child labour and maternity benefits took place (see Shyam Sundar 2018 for details on these reforms). However, much against the expectations of employers the Narendra Modi-led NDA government could not pass ‘hard’ reforms at the central government level though several reform pronouncements were made by it in the last four years including in the tripartite forum like the ILC (Ibid.).

Ironically, during the post-reform period, the reform proposals and measures in fact united the rather divided union movement and it launched huge country-wide strikes and various forms of struggles during the 2010s. They were joined in their protests by opposition political parties who behaved opportunistically (they supported reforms while in or being a part of government and opposed them otherwise). Even when BMS sometimes did not go along with the Joint Action Committee due to reported political compulsions it conducted independently significant protests against labour law reforms (see Shyam Sundar 2009a, b, 2018 for a good account of the struggles and their dynamics).

Some state governments have successfully legislated on some of the issues like union recognition or labour flexibility when these issues met with stalemate at the central government level. But as we see below the regional stories also have their dynamics. Reforms on the issue of union recognition did not take place while reforms to provide labour flexibility took place. Since the subject of labour figures in the Concurrent List the state governments can also legislate with prior concurrence of the central government. We turn to the regional stories below.

5.3 Flexibility and Rigidity at the State Level

We discuss reform efforts of the state governments pertaining to two issues, viz. trade union recognition and labour flexibility.

5.3.1 Failed Reforms: Trade Union Recognition Law in Maharashtra

The Government of Maharashtra passed a unique law, the Maharashtra Recognition of Trade Unions & Prevention of Unfair Labour Practices Act, 1971 (MRTU & PULP Act), to inter alia provide for recognition of unions at the firm level and to define precisely the unfair labour practices by employers and unions which are actionable under it (see Shyam Sundar 2008 for details of this law). The MRTU & PULP Act, among others, contemplates sole bargaining agent to be determined by membership verification method

only and hence it rules out the use of secret ballot or any other method and this has been affirmed by several judgments (e.g. A.P.I. Employees' Union v. Association of Engineering Workers, 1990 II, C.L.R. p. 344, [SC]).

The MRTU & PULP Act has been argued to have led to high amount of litigation by unions and employers, and employers decry the possibility of unions obtaining an instant stay on alleged unfair labour practices as affecting industrial relations governance in the firm (Shyam Sundar 2008). The state government constituted a committee called the M.R.T.U. and P.U.L.P. Act Review Committee under the chairmanship of K.B. Srinivasan, retired Chief Secretary, Government of Maharashtra, on 13 March 2001. The Committee recommended repeal of the MRTU & PULP Act *only* after inserting suitable provisions on union recognition (based on secret ballot instead of existing membership verification) and prevention of unfair labour practices in the ID Act by the state government. However, the then Congress government did not act on these recommendations. The Congress government's labour wing, INTUC, has always advocated membership verification by check-off and this could be one of the reasons for absence of action by it (see Shyam Sundar 2008).

It is also well known that under the Bombay (now Maharashtra) Industrial Relations Act, 1946, (BIR Act), once a union is recognized as a representative union, it is well-nigh impossible to dislodge it due to procedural complexities (see Morris 1965). The two huge strikes in Bombay cotton textile industry to dislodge INTUC ended in defeat. The non-Congress parties and unions demanded a reform of the Act. The state government (ruled by the Shiv Sena-BJP alliance) introduced a comprehensive Bill on Industrial Relations called Maharashtra Industrial Relations Act on 17 March 1997 to change the BIR Act and introduced secret ballot in place of a membership verification method which proved to be a Gordian knot (see Banerjee 1995). Strangely, there was opposition from its own labour wing to the secret ballot method (again due to fears of Communists gaining upper hand in the union movement). Eventually the Bill was dropped (see Shyam Sundar 2008). The labour movement has become dynamic, hence political party desires to change the existing union recognition methods for fear of losing their existing union citadels.

5.3.2 *Successful Labour Flexibility Reforms*

The Government of Andhra Pradesh (A.P.) (as it was known then) was the first to initiate major labour flexibility reforms when it amended the Contract Labour Act in 2002 to allow employment of contract labour in the specified non-core activities and prohibit it in the 'core' activities

(see Reddy 2008 for more details). Employers' bodies in various states quoted the 'A.P. model' to demand for similar reforms.

Rajasthan was the first state to dare the opponents of hard labour law reforms by changing thresholds of major laws to push more workers out of the coverage of these protective laws and clauses. For example, it changed the threshold of the Factories Act from 10 workers with power and 20 workers without power to 20 and 40, respectively, the threshold of Contract Labour Act from 20 to 50 and that of Chapter V-B of the ID Act from 100 to 300. Several state governments have followed Rajasthan—Andhra Pradesh and Maharashtra have followed Rajasthan in the case of Contract Labour Act; Uttar Pradesh, Andhra Pradesh and Haryana in the case of Chapter V-B of the ID Act; and Andhra Pradesh and Haryana in the case of Factories Act (see Shyam Sundar 2018; Upadhyaya and Kumar 2017; Jha 2018 for details on reforms). Many regional governments have also initiated considerable reforms of the labour inspection system to reduce the scope and frequency of labour inspections, such as exemptions from and randomization of inspections, self-certification, third-party accreditation and so on, and labour administrative reforms like simplification of returns, records and registers and allowing digitization (see Shyam Sundar 2018 for more details on these).

Why do state governments succeed where the central government has not so far? State governments have been relatively successful in enacting the hard reforms for several reasons. Thanks to political differences which are acute at the regional level, concerted union opposition to the reform measures is relatively weaker—for example, the Left, the National Congress Party (NCP) and Shiv Sena in Maharashtra or Congress and Trinamool Congress in West Bengal or DMK and the Left parties in Tamil Nadu cannot form protest alliances at the regional level while they can at the national level. In the case of reforms at the regional level, labour protests will not only be fragmented and small due to the aforementioned reason but also be localized and hence 'noise' levels will be low. Further, due to information deficit (trade unions do not use information technology to share information across states and at the national level) and the collective action problems, solidarity actions from other states are not possible. So as opposed to reforms at the national level, resistance to reforms at the state level is more likely to be less stronger. Again, in some cases the party in power can successfully tackle the struggles of the trade union movement by manipulating the protest strategies of its labour wing by delinking it from the joint action programmes even

though the latter will be ‘allowed’ to make ‘protest noises’ so as to leave an impression on its rank and file of being the votaries of workers’ interests. The bargaining power of ‘capital’ appears to be stronger at the regional level, thanks to competitive incentives offered by regional governments in terms of relatively lower labour standards.

5.4 *Labour Codes by the Central Government*

The current NDA government basing its exercise on the aforementioned recommendation of the SNCL (2002) has come out with four Labour Codes on, viz. Wages, Industrial Relations, Social Security & Welfare and Safety and Working Conditions. Further the government has also drafted Small Factories Bill concerning small manufacturing units (GoI 2016). The Codes excepting the last one have been subjected to considerable critical scrutiny by social actors (see the contributions in Shyam Sundar 2018 for a good discussion on them). At the time of writing (March 2019) these Codes are being discussed and have not become a law.

Discussion: It is interesting to note that it has taken several decades for the government to enact some non-controversial and sensible reform measures. For example, in 1969, the FNCL recommended revising the threshold for union registration and time-bound registration of applicant trade unions (which was reiterated by other bodies later) and the former was implemented in 2001 (as an amendment to the TU Act) and the latter yet to be implemented at the Centre, though it is contained in the proposed Code on IR. Similarly, in 1972, LLRW advised direct access by individual workers to the Labour Court in cases of individual disputes like discharge and dismissal. The central government implemented it in 2010 with an unnecessary twist—that individual workers could take the individual disputes to the Labour Court directly after having them kept for conciliation for 45 days! It is a well-known principle that rights disputes are hardly fit for conciliation. This is suggestive of the ‘grip’ that the Labour Department wishes to have on workers, unions and employers.

As globalization forces intensified, the balance of power between the trade unions and the employers (especially the MNCs) widened to the disadvantage of trade unions. Managerial strategies especially of the MNCs include union avoidance or busting. So we are back to 1940s now! These have pushed the trade unions even now to *continue* to rely on compulsory adjudication as a desperate hope for ensuring labour rights; at the same

time even after seven decades since Independence the union recognition right has not been legalized.²

The central government is committed to labour law reforms, affording labour flexibility to employers, and hence it has floated the four Labour Codes which contain several pro-labour flexibility measures. As far as practicable both the central and the state governments use executive orders in place of laws to afford labour flexibility to the employers (e.g. the fixed-term employment reform measure by the current NDA government). At the same time, it has through decentralization of reforms sought to ensure labour flexibility to employers. On the other hand, state governments that are not able to introduce ‘core’ reforms by formal amendment to the law ensure that employers enjoy labour flexibility by ignoring the managerial actions to ‘bypass’ or violate labour laws; this is known as ‘reforms by stealth’ (see Shyam Sundar 2018 for a discussion of these issues). This seems to be a politically pragmatic approach.

The critical reform concerning Chapter V-B has been a major bone of contention in the labour law reforms debate. Recently doubts with regard to the effects of this reform have risen. It is worth quoting Labour Secretary Sathyavathy in this context which is self-explanatory: “My worry is whether industry has taken note of it and whether investments have increased in those states ... That needs to be studied. Our feedback is that *not* much has happened there” (quoted in Jha 2018) (emphasis added). This is indicative of the polarized nature of the labour law reforms debate in the post-reform period.

6 A FEW MORE WORDS

From the foregoing we can draw some conclusions. Introduction of labour laws or reforms of labour laws were carried out mostly successfully in the initial stages of the formation of the legal framework of IRS on the basis of recommendations of intellectual bodies and consultations with social partners in the tripartite forums like ILC. Once the legal framework has been substantially established and it extends certain rights and privileges to the stakeholders such as the ministries in the government, trade unions

²It is significant to note that India has not ratified Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and Right to Organise and Collective Bargaining Convention, 1949 (No. 98), despite severe campaigning by trade unions and ILO. https://www.ilo.org/dyn/normlex/en/?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:102691. Accessed 10 July 2018.

or the employers, it has been difficult to bring in reforms due to vested interests or entrenched interests as explained in the text.

Though the central government has time and again sought to create reform legitimacy by constituting intellectual bodies, the logical conclusion of carrying out reforms did not take place due to absence of consensus and high-decibel protests by trade unions. The ruling party also played cleverly to use the social cleavages to allow the *status quo* to continue either to protect its political or organizational fortunes or to cover up its policy ineffectiveness.

Issues of reforms like labour flexibility belong to ‘mass politics’ and the government did not dare change reforms for fear of political backlash. Unlike in the past in the post-reform period political parties cannot confidently count on support of their labour wings. Any reform needs to be backed by social legitimacy, and the labour flexibility debate could not conclusively prove that it will eventually be beneficial to the workers. On the other hand, union recognition reform did not succeed at the national level due to lack of consensus within the trade union movement. Failure to legislate on union recognition at the national level weakens collective bargaining. Further, managerial actions of union busting and labour flexibility on the one hand and the pro-capital stances of the state governments have created and intensified ‘institutional insecurity’ in the IRS. Hence trade unions demand to retain compulsory adjudication. As a result, even after seven decades of political independence, the IRS is driven largely by compulsory adjudication. Trade unions continue to rely on compulsory adjudication both at the time of independence and now, thanks to power imbalances in the IRS though due to differing reasons (infancy argument then and the globalization argument now).

On the other hand, it was relatively easy to introduce reforms concerning labour flexibility at the regional level due to localized nature of those acts and lower noise levels. Even at the regional level we saw that the government was hesitant to disturb the existing legal set-up lest the ruling parties’ organizational or political interests will be hurt.

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