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SHRAM KO NAMAN



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ABOUT CIDS

CIDS (Conversations in Development Studies) is a peer-reviewed, quarterly research publication produced by the research team of Centre for New Economics Studies, O.P. Jindal Global University. The student-led editorial publication features solicit research commentaries from scholars currently working in the cross-sectional areas of development studies. Each published CIDS Issue seeks to offer a comprehensive analysis on a specific theme within the scope of development scholarship.

The editorial team's vision is to let CIDS organically evolve as a space to broaden the development discourse through conceptual engagement and informed dialogical processes. The commentaries in general, focus on gaining an understanding and appreciation for the subject matter. With varied discourses and perspectives, the CIDS dialogues that translate into text, aim not to advocate but create a platform that allows for ideation in a sustainable and inclusive manner.



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ABOUT THIS ISSUE

SHRAM KO NAMAN

The last few months have brought the world to a state of unprecedented discompose. Humanity had to bear losses numbering over 3.7 Lakhs due to the deadly COVID 19 virus, even as the count of those testing positive ranges in millions. States have had to struggle with administrative responses, frontline forces are caught in the life vs duty dilemma, while citizens have been dealing with fear and uncertainty leaving them with too little to even mourn the dead. These are testing times, indeed, with the pathogen playing a sort of ‘negative equalising’ role for all. However, certain sections of the society have had to bear a disproportionate share of the viral wrath than most others.

Stranded far away from their homes, lacking clarity about rules and regulations regarding transportation, rendered jobless due to stalled economic activities, shrouded by clouds of uncertainty, the pandemic-led plight of migrant workers has had no companion in this journey. These workers, mostly workers, have been covering thousands of miles on foot and/or cycle from one end of the country to the other, to get back to their hometowns. Even after managing their way back home, they stare into a bleak future with little hope of finding gainful work opportunities anytime soon.

As we brace for the indefinite, the unexpected, the pandemic offers a fresh opportunity to analyse what is called the *informal sector* or the *shadow economy*. While there is no singular, reliable source of statistical database, the share of *informal* labour force in the total workforce is widely believed to be conveniently over 80%. Besides, their contribution to the country’s GDP is significant- the report on ‘employment in *informal* sector and conditions of *informal* employment’ (2013-14, Ministry of labour and employment) notes that the *informal* economy’s contribution to national product is about 50%. Such a context warrants a better understanding and analysis of the sector.

This Special Issue of CIDS takes up this task and intends to analyse the *informal* economy with discussions along the line of **five** major aspects:

CONCEPT:

Any attempt to understand and address the issues associated with the labour force would turn futile, lacking the clarity of certain concepts. There are concerns about the growing *informalisation* of employment on one hand. This



needs to be distinguished from what the *informal* sector generally means. On the other hand, the concept of *informality* itself seems quite incoherent. Multiple states and organisations resort to multiple approaches in interpreting *informality*-ranging from size to irregularity to maintenance of credible financial account(s) separating production activity from other activities of the owner, nature of activity, et cetera. Further, as also acknowledged by NCEUS¹, there is a need to make unambiguous classifications among *formal* employment, *informal* employment, *formal* elements of *informal* employment and *informality* of *formal* employment. Hence, a clear and coherent definition of these concepts is a fundamental requisite for dissecting the complex issue of labour.

CONTRACTUALIZATION:

A widely accepted indicator of *informality* is the ad hoc nature of work prevalent across sectors- from the organised firms within the manufacturing sector to the service sector of which the teaching profession is a glaring example. Existing literature points towards myriad reasons to explain this phenomenon, the prominent ones being- rigidity of labour laws encouraging employers to find ways of circumventing them and/or capitalist pursuit of profits at the expense of workers by cutting down their benefits. Attempting a simpler interpretation, the underlying motivation seems to be a reduction in the cost of production without adversely affecting the productivity and thus profitability of the firm(s). However, the emergence of a freelance economy/gig economy could suggest otherwise. Add to it, a blooming start up community that would find an incentive in the flexible 'hire and fire' culture complementing its experimental nature. In this direction, there have been reports about the aspiring present generation that wishes to market its skills to multiple clients, preferring a flexible nature of employment while maintaining work-life balance. This could also be a factor in the greater *contractualization* of work that we see today. This brings us to a possibly different view of *contractualization*. Therefore, it is important to use different lenses-including that of the employer and that of the employee- to better understand this phenomenon.

REGULATION:

Multiplicity and subsequently, redundancy of *labour* laws remains a key area of contention when it comes to the aspect of regulation. There have been conscious, frequent efforts by the government of India, policy makers, industrial and other concerned non-governmental stakeholders to find a solution to it. The latest in line is the 'Industrial Relations Code, 2019' introduced in the last winter

¹ NCEUS- National Commission for Enterprises in the Unorganised Sector

session of the parliament, which now rests with the standing committee. The bill proposes to subsume and replace three existing laws- the Industrial Disputes Act, 1947; the Trade Unions Act, 1926 and the Industrial Employment (Standing Orders) Act, 1946. Furthermore, *labour* features in the concurrent list of VII schedule of the Indian constitution, meaning, both the centre and states have powers to legislate on the subject. This links effective regulation of *labour* to cooperative federalism- which is itself subject to the interplay of multiparty politics and complexity of decision making led by vast diversity of the country. It therefore becomes imperative that critical dimensions of regulation be recognised and analysed.

VULNERABILITY:

The irregular nature of work, non-applicability of laws, poorly framed contracts with poorer enforcement owing to inadequacy of institutional mechanism to ensure transparency and accountability, the dynamic nature of economy with an ever increasing pace of change(s) driven by technology and growing threat of large scale retrenchment forced by automation are among the major factors that make the *informal* workforce a *vulnerable* lot. However, empirical evidence suggests, there are certain sections that are more *vulnerable* within this *vulnerable* lot. SECC² (2011) report notes that about three-fourth of Dalit households and over half of ST³ households depend on manual casual *labour* for income. About 95% of women are engaged in *unorganised sector* or unpaid work-Empowering Women & Girls in India in India (GCNI & Deloitte, 2019). Further, there is the case of ethnical minorities being prone to *vulnerability* because of numerical and cultural marginalisation. Therefore, there is a need to have a deeper look into the caste, gender, and ethnic dimensions of the *informal* workforce, to understand the gaps and contribute towards filling these at policy, implementation levels.

(POST) COVID SCENARIO:

Given the current scenario driven by the pandemic, with the economy badly hit and the cure of the disease still alien to the human race, uncertainty is omnipresent. Despite these challenging times, governments have started allowing 'unlocking' of lives and livelihoods. Desperate efforts to restart economies even while not putting the guards off the virus, can be seen. Albeit, it is hoped that the world sooner than later would emerge triumphant over the

² SECC- Socio economic caste census (2011) was conducted to study socio-economic status of urban and rural households in India.

³ ST-Scheduled Tribes as defined under article 342(1) of the constitution of India.



pandemic, voices around the globe echo the inevitability of pursuit of systemic changes. Work, workers, & workspaces- all might have to adapt to these upcoming changes. Along the same line, there are pitches for re-skilling the *labour* force. Recently, few states like the U.P. have been reportedly diluting *labour* laws through ordinances for attracting investors, while some others have been increasing the working hours.

As the picture surrounding these dimensions of *concept, contractualization, regulation, vulnerability* in a 'post COVID scenario' remains hazy, it becomes important to try understating these aspects with greater certainty by spotting the deficits, anticipating potential ramifications and preparing ourselves to face the impending challenges. This Issue is a step in this direction.

This Special Issue features in-depth conversations with experts and academic scholars from diverse backgrounds of *labour* law, political science, anthropology, and urban geography. Their scholarship and research experience gained in working on issues focused on the working class allow us with much needed clarity on the five aspects discussed above and in context to the broader crisis of the working class, engulfing the developing world (especially India).



ACKNOWLEDGEMENT

The CIDS Editorial Team would like to extend its heartfelt gratitude to Professor Apoorva Sharma, Dr. Sumeet Mhaskar, Dr. Atreyee Majumder and Professor (Dr.) Mara Nogueira for agreeing to be a part of this Special Issue and investing their time and support for making this special issue a success, despite the pandemic led critical circumstances.

‘Informality’ and the Shaping of Urban Spaces

The team interviewed Prof. (Dr.) Mara Nogueira who is working as a Lecturer in Urban Geography and Director of the MA/MSc Cities Programme at University of Birbeck, London. She works on the cross-class politics of urban space production, with an emphasis on the (re)production of socio-spatial inequality in urban Brazil. Our interaction with her provided us with an international perspective on labour related issues. Prof. Nogueira’s area of interest includes the relationships between the popular economy and urban space, multi-scalar geographies and socio-political repercussions of the labour crisis. Her work focuses on the encounters between the urban poor, the middle-classes and the state, exploring how those encounters shape urban space, policy making and social class.

How do you think the concepts of *formality* and *informality* are interlinked?

It is important to reflect a bit on the concept of *informality*, where it comes from. The concept comes from the 1970s and it has been arguably coined by Keith Hart to talk about the *informal economy*. At that time, the concept was progressive, for, it allowed researchers, international organizations, and governments to pick up the types of economic activities that were happening outside of formality and were not accounted for, by statistics and government policies.

Someone looking at a place like Africa or Latin America at that time would see high unemployment according to the statistics. But the fact is that they were doing work/ activities not captured by the then existing concepts and frameworks. So, at that point, the concept of the *informal sector* was picked up by the international *labour* organization. It was quite important in the sense that it allowed discussion about policies which were focused on those types of activities. From then onwards, we have seen much development in this line.

At this point nobody agrees on what *informality* is. Then there are several schools of thought which interpret both the concepts (*formality* and *informality*) and the relationship between them in different ways. Although the concept was initially related to the economy, it eventually started seeing diffusion into other ideas like that of formal settlements, particularly in the global south.



The concept that I used a lot in my work and that was particularly connected to planning is the urban *informality* approach, which has been developed mostly in relation to India. This is different in comparison to the seventies when there was a lot of discussion about Latin America and Africa. In the more contemporary years, discussions surrounding *informality* and some fresh *conceptual* perspectives come from people doing research in India, or, or thinking about India urbanisms. One of them is Ananya Roy who talks about urban *informality* as a mode of urbanization, rather than a sector. By implication, *informality* is a way of producing cities that does not happen outside of the state but is actually implemented by the state. The state decides which types of occupation of urban space are legitimate and which ones are not.

She uses the example of Delhi which sees a lot of construction activities that are somehow illegal. Some of these are accepted as legal and some are not. Then, *informality* becomes a strategic discourse employed by State and other actors such as the middle classes. They give legitimacy to such occupations and allow for displacement and dispossession. So, in this kind of approach, the relationship between *formal* and *informal* is fluid. So, what is categorised as *informal* could actually be a continuum of different types of activities that fall into different categories. The boundary between *formal* and *informal* moves according to the power of different actors who claim *formality*.

How are the *informal* and *formal* sectors interconnected in your opinion?

For better understanding, it is important to focus on a particular type of *informality*. If we are discussing *informality* in housing strategies, we need to understand the relationship between what we might call the formal city and the informal city. Further, we need to think about what we are focusing on- practices or discourses? We have relationships, for instance, between formal residents and informal residents.

In Brazil, we have a *favela*- the vernacular term for informal settlement. The relationship between the residents of those different areas might be quite diverse. We might have people working as nannies or as domestic workers coming from the *favelas* to work in the formalised areas. Such workers work in their so-called neighbourhood and then go back to their house in the *favela*. They might do their shopping in supermarkets located outside of the *favela*. There could be people who live in the neighbourhood but do some sort of work with community organizations and/or projects in the *favelas*. The other sector that I would like to think about when discussing the relationship between the *formal* and *informal* is the economy. I do research mostly on street vendors in Brazil. They are *informal* in many ways including falling outside protection of *labour* laws. At the same



time, they are also *informal* in relation to their occupation of urban spaces. So, they can be said to be informal from a planning perspective. The relationship of those workers with formalities could also be in dealing with the state- a formalized institution, although it may work as well in informal ways.

They also have relationships with the formalized economy because they buy their products from formalized stores. There is this perception about a product that is being sold by a street vendor, that it is not *formal*. However, if we look at the life cycle of such a product, we get a different idea. Taking the example of clothes, they are often produced by *informal* workers in *informal* workshops. But then those very clothes are bought by a bigger company, which is 'formalized'. And then that company sells them to the street vendor who resells them in street markets. So, it is difficult to say if a product is *formal* or *informal*. Nowadays the formal and the informal are related in multiple and diverse ways. In fact, it is worth asking if the divide is doing much for us. This is especially true when we have the gig economy growing everywhere in the world.

The promise of modernity since the seventies when the concept was first coined has not been realized. So, we might ask ourselves how much that kind of dichotomy is working to describe the economy that we have today. This has implications for policies- *formalization* policies aimed at street vendors that do not address the types of insecurities that street vendors face.

They do not provide them with *labour* rights. They only formalize them from a planning perspective by taking them out of the streets and putting them in shops. However, at the shops they sell less, and they are less mobile, less flexible. So, it affects them in negative ways, and it does not really address their issues. So, when thinking about how to address problems connected to *informality*, sometimes it is useful to ask what is formal and how does *formalization* help those outside protection.

How can we understand *vulnerability* within the *informal* sector?

Again, it is important to think about which sector we are talking about. If we are thinking about housing strategies, for instance, there would be a certain type of *vulnerability*. In different places of the world, *informality* is associated with displacement. The discourse of *informality* is used to justify displacement, dislocation, and dispossession. So, people who do not own property titles might be more in danger of suffering from the adverse effects of development policies. Although there are certain policies in place which protect *informal* residents even without the need of property titles. So, it is important to think about the source of *vulnerability*. A lot of the times the source of *vulnerability* is the lack of access to



infrastructure, water, sewerage, electricity, security, jobs, transport, and food etc. So, the problem is not the fact that they are ‘informal’ and that they lack a property title, but it is because they suffer from a diverse set of new *vulnerabilities*.

Therefore, policies not addressing the *vulnerabilities* end up being flawed.

Moreover, policies should be careful about not dismantling existing *informal* economies in the spree to formalise them. This would only end up creating new *vulnerabilities*. For instance, in case of street vendors in parts of Latin America, the police and inspection agents control access to space. By not allowing them to work on the street, they are also creating a great source of *vulnerability*. Having secure access to space to work is key for street vendors.

What are your views on the increase in *contractualization*? What do you think can be done to make contracts more secure and aligned to the interests of the workers?

I think that in the past everything was a bit attached to the dream of modernity and development. The notion everywhere in the world was that every place would achieve a certain stage of development. The sixties and seventies were associated with Fordism and Keynesianism. While Fordism meant a particular mode of production, Keynesianism meant a particular type of relationship between the private sector and the public sector, with a growing pitch for the ‘welfare state’.

The development that was dreamt of was mass production and the welfare state. But the welfare state, which was prevalent in parts of Europe and parts of North America- the global North- was never really fully implemented and developed in the global South. So, in Brazil and India, we never had a situation in which the totality of the *labour* force was incorporated into a formalized contract and therefore had access to protection, and secure employment. We cannot go back to a past that we never really had. The dream of development has proven false, and it has proven derogatory for nations in the global South.

Casualization (in context to ‘Contractualisation’) is becoming more common in the global North rather than secure employment becoming more common in the global South. So, the dream of development has not been achieved and the welfare state in the North has been dismantled by decades of neoliberal policies and austerity. The struggle is different depending where you are. In the North, the struggle is against austerity, for keeping the welfare system that they had before. Whereas in the South, the struggle should not be for a return to the sixties and seventies.



Nowadays what we need to do is listen very carefully to the demands coming from different workers. Consider the gig economy, for instance. Everywhere in the world companies are making millions. Why then are they not providing their workers secure contracts and rights? In such cases, State intervention and regulation is a must. Companies could be made to pay for it. Whereas if we look at street vendors, autonomous and self-employed workers in Brazil and in India, the approach should be different. One of the policies that has been on the spotlight right now because of the pandemic is the universal basic income. A universal basic income combined with a functional public health sector, public education system could provide those workers with minimum security and allow them to remain self-employed. Therefore, when we look at *formal* and/or *informal* work, we need to think about different sectors. Different groups need different approaches.

How do you think can ensuring basic necessities, such as housing and healthcare make the workers in the *informal* sector less *vulnerable*?

At the outset, we need to be clear about the type of *formality* we are looking at. When we look at the lives of the so-called urban poor, we will find out that more often than not, they are involved in different types of *informal* activities.

One of my research projects involved a squatted building in the city centre of Belo Horizonte in Brazil. In this urban occupation, there were groups of homeless families claiming their rights to housing and street vendors that had been displaced from their workspace in the city centre. The project made me realize how relevant living in the centre was for street vendors. In the centre, they had access to culture, they had access to theatre, cinema, education, schools which were located in the city centre, to politics because both the city hall and the city council are close by, to the market because they still work in the city centre. So their commute was much shorter. In the project, it became even more clear to me how the strategies of housing and working are quite connected. An inclusive policy must take this into account.

With the pandemic now, the connection between work and home is more visible to people. With homes becoming our workspaces, issues of commuting time, flexibility and productivity have become central. Coping with problems from the work sphere and from the domestic sphere in the same space at the same time has brought a new picture to our eyes. So, policies should consider the connections between home and work.

What are your views on different governments handling the pandemic in different ways?

Well, there has been a lot of diversity. It is hard nowadays to discuss the entire world. It would be useful to compare perhaps Brazil and India. India has implemented a very strong and perhaps not-very-democratic locked down policy, which I'm sure has had very unequal consequences in terms of impacting people's ability to secure livelihoods. We have seen several kinds of reports of migrants going back to their villages. A lot of them being *informal* workers that could not afford their livelihoods without access to their daily incomes. India is a bit more decentralized than Brazil in terms of the difference between States and regions and in how different States have approached the epidemic differently. Brazil on the other hand is more centralized than India and the U.S..

One would expect the federal government to play a more leading role. But we have a president who is a far-right populist, consistently denying the gravity of the situation to the point that two health ministers have resigned during the pandemic due to disagreements. And Brazil has had no health minister for two months now. So, Brazil has not had any type of centralized initiative to promote social distancing. On the other hand, we did implement an emergency income support of less than a hundred pounds a month. It is less than the minimum wage in Brazil per person. On an average, that was 137 pounds per household according to the most recent data; and 38% of households in Brazil have received this support. The number of cases has been growing, and the scope for growth is still quite big. Brazil also faces a political crisis. I think that no country has had so many different crises happening simultaneously, which is unfortunately leading to a catastrophic situation.

Of course, there are a lot of potential initiatives coming up, with people raising money for different types of initiatives, communities coming together, and the entrepreneurial spirit that can be found among those having to innovate in order to survive. So, I think it is still difficult to tell which approach is better. India's approach has had very severe impacts. But it seems to be a bit more successful in terms of dealing with the disease itself and its spread. Whereas Brazil is doing very little to deal with the spread of the disease. But it is difficult to estimate what lies ahead.

Do you think the Covid's impact on the *informal* sector itself has a gendered aspect to it?

Yes. Different sectors have been affected differently in Brazil. The most severely impaired group of workers is that of domestic workers which in Brazil is mostly comprised of black women. Apart from the gendered aspect, there is also a racial dimension in Brazil. The black and brown populations are overrepresented in the *informal* sector. Moreover, women have been dealing with the double burden of productive and reproductive *labour*.

Has Covid increased the racial divide within Brazil or that has it exposed it further?

In Brazil, in the beginning, it was considered a rich people's thing because it was connected with people coming from Europe.

Talking of domestic workers, there was this domestic worker employed by a person who had just returned from a trip to Europe and was sick. The domestic worker was kept in oblivion about this sickness, eventually got contaminated and unfortunately died. Once the disease became more widespread in Brazil, it became more and more clear that the peripheries and black and Brown populations are being hit the hardest. Of course, the virus itself does not discriminate between races. Discrimination comes in the matter of access to healthcare, among other aspects.

In Brazil, we do have a public health system, which is universal. It does provide free healthcare to the entire population of the country. But, as it happens in other places, people with a better income situation can pay for private healthcare. The public system, which is underfunded, and over stretched is mostly catering for the poor. The poor are disproportionately black because of our history of slavery and the lack of policies to address racism and racial discrimination in Brazil. Black people are the ones who are dying the most from the disease. They make the more *vulnerable* lot because of poor economic conditions and insecure jobs. The pandemic has exposed an existing inequality rather than creating a new one.

Is there a need for the expansion of social welfare plans such as 'Bolsa Familia' within Brazil given the current pandemic?

For sure. It is very well designed and it has been very successful in poverty alleviation. Several researches show a positive and important impact in addressing different issues in Brazil, especially poverty. The *Bolsa Familia* is a conditional cash transfer program. It means that only the families which are



somehow identified by the government as falling below a certain threshold are benefited by the program.

In fact, an attractive policy would be one not having conditions-accessible to all. When everybody gets included, there's little/no possibility of leaving out people whom the government might fail to recognise as those in need of support. Further, what we need is a safety net for people who are not necessarily extremely poor. Nonetheless, they are *vulnerable* in the sense that they are doing okay today, but they can be *vulnerable* tomorrow. So, the idea should be to introduce a changed version of *Bolsa Familia* instead of simply expanding it.

What role do you think that civil societies and end-use can play in addressing the concerns of workers, especially given the current situation?

They have a lot to contribute. The types of *vulnerabilities* that different groups of *informal* workers face are associated with their everyday lives. A lot of the time, the state does not see the details of people's everyday lives. Besides, it has a top down approach, which tries to address every single sector with a similar, standardized approach, instead of a tailored approach. So, NGOs and civil society organizations, social activists, connected with the everyday struggles of the poor, are in a very good position to contribute and address the ground issues. The state with its top-down approach could be more disconnected as compared to these non-state actors closer to ground reality.

In your opinion, can *formalization* of the workforce be seen as the ultimate solution to addressing the plight for workers in the *informal* sector?

I do not think so. Again, it depends on what we are calling *formalization*. Expansion of citizenship, expansion of access to services, expansion of access to safety nets are important aspects. But when we think of the future of the world, it should be about every single worker. The *informal* economy is impregnated with ability, dynamism, and entrepreneurship in the sense of innovative behaviour. These should be fostered and not suppressed by policies which are bureaucratic and top-down.

My idealized future would be a future where people would work for themselves, in solidarity with each other, rather than in competition. In order to achieve that, we need to empower those working in types of jobs/works outside *formality*. However, until we get to that future, we do need to address vulnerability and within that, we do need to address everyday real struggles.



So, I would advocate for expansion of citizenship and expansion of access to services, infrastructure, safety net; but not necessarily *formalization* policies. *Formalisation*, if seen and understood from the position of a bureaucratic set up, would rather probably constrain an individual.

Legal Matrix Surrounding Labour In India: Limitations & Recommendations

Prof. Apoorva Sharma teaches intellectual property rights (IPR) and labour law at Jindal Global Law School. His research interests include Intellectual property rights, constitutional law, labour law, and criminal law. The CIDS team was interested in interviewing Prof. Apoorva to gain a better understanding of the legal dimensions surrounding the concept of labour and labourers. Given Professor Sharma's work in Labour law and Constitutional law, the team got some fascinating insights about labour laws in states like West Bengal, Maharashtra, UP and Bihar. As the Issue aims to understand the apparatus and dynamics of the labour market of India, a view through the legal lens of phenomena like contractualization, formalisation, vulnerability, organised and unorganised sector, was of material relevance for the team. Going beyond the generally touted mantra of 'implementation is the key', the team was familiarised with structural and functional challenges facing the Indian labour force through real life examples. Moreover, it was introduced to some practical, interesting solutions in reference to international models like the Codetermination model of Germany.

Define your understanding of the concept of *vulnerability* in context to India's lower working class? How can social scientists define the form and substance of their *vulnerable* state?

Lawyers generally tend to define everything. However, law dislikes terms which are really carefully defined. The question uses the terms *vulnerability* and *informality*. But the fact is that law uses neither of these terms. Instead, it uses the term *unorganized*. A clear definition of this term is given in the Unorganized workers, Social Security Act 2008, it is very unrecognized as it was not that useful. But as a starting point we can take the definition from here.⁴

After having gone through the definition of these terms, we can talk about estimates as to how many people actually work in the *unorganized* sector. These estimates go up to 92%, but people say it's somewhere around 85% of Indians work in this sector. This creates a critical situation because now we are defining as a *vulnerable* group, nearly 85% of our total population. But the question is whether this 85% really forms a *vulnerable* group?

⁴ Ministry of Labour. *Social Security Act 2008*.

labour.nic.in/upload/uploadfiles/files/ActsandRules/SocietySecurity/Th
eUnorganisedWoekersSocialSecurityAct2008.pdf.

While talking about *vulnerability of labour*, we must define it in entirety of these 85% people. There is also a need to redefine the term *vulnerability* itself. Because as of now it is understood as those who are from lower caste, women, or transgender etc. from a general viewpoint. But the problem here is that these sections have no *labour* legislation that protects them. The reason because of which the Social Security Act was even passed was to provide a bare minimum requirement to people working in this sector. This was brought in by the first UPA government, who actually did a lot of progressive *labour* legislation including MGNREGA.

Since then there have not been any more effective policies for labourers. One of the reasons could be the 2008 crisis which pushed India into an austerity regime from which it has not yet recovered. In the current situation of recession, the government is in a way sidling few of what *labour* laws we are left with. As per 2007 NCEUS report⁵, 80% of India was living with 20 rupees a day or less. And with the present rate of inflation it would be 50-60 rupees a day. This report would actually bring the poverty line in India from 30-35% to 80% and that is why it was buried.

What are your views about the increasing *contractualization of labour*? Is this part of the neo-liberal contract that workers need to sign up for in 21st century India? Explain your views and help us understand how contracts can be made more secure and aligned to the interests of workers?

Again, we have to divide or draw a line between urban and rural. Gig economy is largely confined to urban areas with companies like Ola, Uber, Zomato etc. which incorporate a large chunk of people who would rather be part of the *formal* sector and hence is a process of *informalisation* in neoliberal context. However, if we look at rural and migrant workers, we will notice that they are not a part of such *contractualization*. They are mainly daily wage earners. From an Indian law perspective, different courts have had different approaches to this.

I would like to share a case from 1982 with you called Peoples Union for Democratic Rights (PUDR) versus Union of India. It was about the construction of buildings for Asiatic games for which the government approved many contracts for construction. This work was subcontracted to various people. Now the contractors were supposed to pay a minimum wage to all the labours but ended up taking commission from all of them. As a result, labourers ended up having less than minimum wage due to the commission added by contractors. So, the court considered it equivalent to slavery and declared it as forced *labour*.

⁵ “NCEUS Reports.” *Sanhati*, sanhati.com/articles/8325/.

So, contracts which have economic choices attached to them were considered forced *labour* by the Supreme Court in 1982.

But surprisingly the Supreme Court has not been consistent in this approach. Because today all the migrant workers fall into such contracts and are victims of slavery. We can look at the Bonded Labour Act of 1976, for instance, which is quite unique in itself because it identifies castes in which bonded *labour* was common. So, there is a list of castes from which if people are found doing bonded *labour* then the person who employed them must prove otherwise or face consequences. Worth noting here is that most of these listed caste people were or are in fact agricultural workers and due to unfortunate situations, they anyway end up in such contracts.

When we talk about *contractualization* in urban areas, earlier there were unions for example taxi unions in Mumbai which have lost a lot of their power with the advent of cab aggregators like Ola and Uber. They used to have power and were able work towards their own protection. There are a lot of exploitative practices in the *unorganised* sector which promote slavery or child *labour*. For instance, Beedi rollers who get paid a piece rate of what they produce on a daily basis. Here they have to meet the quota set by the employer to get proper pay. This then forces the workers to bring in more hands to do the job which usually involves children of their families. In this case the employer is not hiring or forcing children to work.

Nonetheless, child *labour* is taking place. We see a sort of *quasi-contractualization* where the relation between child and the company is unclear. This has been seen in the past also, especially around the 90s, when the likes of Nike were exploiting the workers in Vietnam with similar tactics to produce their overpriced shoes. Such old exploitative practices have been carried forward by such big enterprises even today to make greater profits. So, we can say that *contractualization* existed in the past as well and now it has just changed its form. Exploitative practices such as forced *labour*, child *labour* etc. are becoming indirect ingredients of the process.

How do you think the concept of *formality* and *informality* are interlinked? Do you think they can be treated as dual aspects in Indian context?

This can be answered in terms of *organised* and *unorganised* sector. But at the same time the concept of *formality* and *informality* are somewhat different. So an *unorganised* sector can become *organised* by simply hiring enough people. The reason behind this quota of 10 people to be considered as *organised* is because of

the Factory Act, which states that a shop which produces something using electricity will be considered as a factory if it employs 10 people or more. But the major problem lies in the government being hesitant about implementing these laws. The states like Gujarat, Bihar, UP, Tamil Nadu etc. have completely suspended *labour* laws including the Factory Act. Here one can see the clear increase in *informality*. Another problem in Indian context is that we always have had an unacceptable rate of unemployment. This also gives rise to *informality*. Add to it the lack of *labour* laws. Combination of such factors results in no/negligible protection for workers working in the *informal* sector.

There is a difference between ‘contract for service’ and ‘contract of service’ which is a traditional employment approach. So, in the latter case there are some benefits. Employees cannot be fired without a disciplinary process or some compensation by the employer as per the Industrial Dispute Act. But in case of simple contract situations people tend to wait for the contract to end or they never pay the contractor, which is what actually happens now. Globally the *labour* protection and *labour* laws have gone down and the number of jobs giving pension are now negligible. Similarly, such benefits that earlier used to be given to the workers like dearness allowance given to government employees, are no longer in place.

Looking at the solution side to address such problems, an interesting model that could work is the ‘co determination model’ of Germany⁶. This makes the workers of a company eligible to be the part of the Board of Directors and hence, hold the power to protect the workers from discrimination and injustice. Thus, this has changed the way *labour* functions in Germany. The EU also has standardized weekly working hours of 35 hours a week. The German workers through their trade unions have negotiated for 28 working hours a week. This has effectively decreased the working hours in Germany which in turn has other positive effects on health of workers, increase in consumption due to more leisure time, etc. But in India this sort of solution has never been genuinely attempted. In fact, the idea of working hours no longer exists in the Indian context. Whereas earlier people used to take long holidays to attend some family functions, it is now unimaginable. But in Germany, people can take a three-day holiday in a week. In India we have ratified an International Labour Organisation convention which says that our working hours should be 48 hours a week. But the Code of Wages sets the working hours at 9 hours a day 6 days a week which

⁶ Dgb-En. “German Codetermination.” *Dgb*, en.dgb.de/fields-of-work/german-codetermination.

sums up to 54 hours a week. The government has not talked about it because of the feared decrease in competitiveness of India, ceding space to China.

The issue in India is that the problems arising from the *organised* and *unorganised* sectors are intractable. They give rise to new issues such as urban- rural divide to which we have no solution as of now. The last serious attempt to deal with this problem can be said to have been given in the NECUS report which suggested providing people with bare minimum assistance to sustain, but it never actually panned out.

Is formalization of the workforce seen as the ultimate solution to address the plight of the workers? What steps can be taken to alleviate the poor working conditions of the labourers?

It depends on the kind of structure we want to put in place. If a domestic help is fired from his/her job, he/she can barely protect himself/herself from such exploitation. And so is the case with all other *unorganised* sector workers. They get exploited at the place of employment sexually, physically, and mentally. Here, if we opt for an incremental solution then we have to accept that such problems persist, but we have no solutions for it. If we opt for a radical option to solve the situation then we have to take some form of capitalism away from India. But the current political situation does not look like it would support such a move.

Another solution could be workers' organisations or unions that could facilitate workers' bargaining power. But the government has suspended Trade Union Act and so it again comes down to political cost of implementation and political will. But the point is that this whole consideration is broken at every level. So, either we have to deal with the incremental solution which is why for instance MGNREGA got a lot of funding despite getting a lot of criticism from the government or we have to make radical changes. To sum up, answering this question fully looks rather difficult at this stage, but it is definitely a question that we have to address in the next 10 to 15 years.

What is your opinion on the current labour law framework of India? Are there any fundamental flaws in it and if so, what would you suggest to address them?

Basically, there are no *labour* laws in India. All of the existing laws in this regard exist as a rule book. So the process is given that needs to be followed but these are so obscure and difficult to follow that the amount of time it takes to get justice is so long that it is most likely to surpass the seeker's death. For instance, if one is wrongfully terminated from a job, following the Civil law process



depending on the court and also on state, it can take somewhere between 20 to 30 years to resolve the case. By this point one is usually done with the working age. An example could be the case of an inspector in Mumbai who got wrongfully terminated in 1983 and was still fighting his case in 2011. He was in his seventies and still had not gotten any of his pension because he was fired and not retired.

Going back to the point of fixed working hours, if an employer forces his/her workers to work beyond the set quota of 48 hours a week, the worker should ideally be complaining. However, one, there should be a fair complaint process and two, there would be the fear of losing one's job on complaint. Hence, periodic inspections by the government become important. But due to issues like massive corruption and cost of hiring the inspectors, which is a spending with no returns, the government usually does not invest in it. So, all such laws are there on paper but when it comes to implementation, we need government's consent also.

For better understanding, we could look at a case from the communist-ruled state of West Bengal from 1962 called Jay Engineering workers Ltd v/s state of West Bengal. It was about '*gherao*' which is a process followed by factory workers in Bengal which involves locking up the supervisor or the owner of the factory in a facility and then carrying out sloganeering. Essentially, it is a type of abduction and a criminal offence. But since there was a communist government, the local police were ordered not to intervene in cases of *gherao* unless advised directly by the Labour Minister of West Bengal. Hence strong laws with poor state willingness and participation are of no help.

But we have not had such state activism in a long time except for in Kerala which managed activism even in the current situation of the pandemic in an organised manner. It is often observed that most developed states in India tend to have strict *labour* laws in terms of Human Development. For instance, a lot of people do not know that there are a lot of strong *labour* protection laws in Maharashtra and the weakest *labour* laws are in places like UP & Bihar. Hence, we can sum up by saying that we have a *Labour* Law framework but only in theoretical form.

What are your views on the way the Government has handled the case of migrant workers in the backdrop of the pandemic? Could you suggest some alternative ways in which the government of India and/or the states could have better addressed the situation?

As mentioned earlier, the government relies on productivity and the pandemic halted the ongoing production altogether. The government here had two



options- one, which happened, was to opt for lockdown which caused the productivity to fall. Second, everybody falls sick in which case also we would have to compromise with productivity. So, in these circumstances what needs to be done by the government is that they provide a social security net to these people. But the government has actually gone the other way round and loosened the *labour* laws.

Labour In India: Dwindling Status In Political Spectrum And Dents In Policy Framework

Prof. (Dr.) Sumeet Mbaskar is trained in Sociology and Political Science. Dr. Mbaskar is currently an Associate professor & Associate dean (Student Affairs) at Jindal School of Government and Public Policy at O.P. Jindal Global University. Prof. Mbaskar's specialization and research interests lie in the field of labouring in informal and formal economy, discrimination and exclusion at workplace, Indian politics, and educational and occupational attainment. With respect to vulnerability and informalisation which make defining features of the Indian labour market, Dr. Mbaskar shared his experience from his research and case study of Mumbai's ex-millworkers who worked in textile mills in Girangaon where he analysed the workers' response to job loss and the vulnerabilities that they faced. Another brilliant piece of his work is "Rural-Urban Linkages in a Global City" that looks into the urban experience of rural labour migrants who enter the city through well-established and old networks, which helped us understand the plight of migrant workers and challenges that they encounter while entering the urban informal sector.

What are your views about the status of *labour* policy in India in general? Where are we placed right now and what are some fundamental flaws that you see?

The existing *labour* laws are quite robust but not draconian as critics want us to believe. The problem is the lack of political will to implement the provisions. The ruling political parties do not feel any pressure from the labourers because they do not constitute a pressure group who can have an impact on the electoral outcomes. As for the employers, they find it convenient to bypass the regulations by restricting the size of their enterprise on paper. By doing so the enterprises exempt themselves registration and *labour* regulations. Registration entails taxation, legal obligations and rules including minimum wages. In some cases, corruption is one of primary reasons that discourages employers from registering their enterprises. The demand for bribes by the government officials compels the enterprises to remain unregistered.

Talking about the recent government policies, on one hand we have broader initiatives like the special economic package worth ₹20 Lakh Crores that basically aims at food grain, credit, and rented housing assistance. On the other hand, the government has come up with more targeted policies like the 'Gareeb Kalyan Rojgar Abhiyaan' which aims to

cogenerate public infrastructure and livelihood opportunities. How can these initiatives help address the fundamental flaws you pointed to?

Laws and policies are framed in certain socio-economic and political contexts. In the current situation, there are millions of migrants who are travelling from cities to the countryside and from various rural areas to their places of origin. Given the fact that this return migration is going to affect the economy in the cities in a big way, and major news channels are covering this news the matter has gained political weight. This case of migrant workers particularly from the lower end of the economy has generated lot of political sympathy and pressure on the political class. Therefore, the ruling government was left with little option but to respond to this crisis.

To know whether the mentioned policies will work, one has to look at a comparable example such as the MGNREGA. The scheme has had a mixed trajectory. Some states have performed extremely well, and others have not. It was clearly a case of political will of the states implementing the scheme. In cases, where there was lack of political will there was large scale corruption. List of villagers who worked under the scheme did not find their names in the list and therefore were deprived from their due wages. A bogus list of villagers was created, and in several cases, crores of rupees have been siphoned off by the bureaucrats and local political class.

The implementation of current initiatives is also dependant on the political will. As time passes by, the issue of migrant workers will receive less attention, and there will be less pressure on the ruling governments. That is when all these recent initiatives will remain largely on paper. Unless the state invests in long-term schemes for the welfare of migrant workers, we will return to the same problem that we have been facing for the last hundred odd years.

Do you think social aggregates like gender and caste play a critical role as factors driving migration from or within states? If yes, how does one study this closely?

Social institutions including caste, gender, ethnicity, and religion are extremely important in context of *labour* migration. This is because people do not randomly migrate. They migrate within well-established networks of caste, kinship, and village. This has been the pattern historically. Secondly, when they migrate, their social background also influences the kinds of occupations they opt for. And most importantly, those identities restrict their occupational choices. Historically, caste or *jaatis* influenced the kind of work one has been engaged in.



Whether this relation between caste and occupation is still relevant, is a question that continues to interest social scientists.

Studying such aggregates requires picking up a sector and then focussing on the type of migrants moving into that sector. The variation within them can help us understand who ends up picking up what kind of job. This is because we do not function in a rational *labour* market where only skill sets are important for acquiring jobs. Social identities have played an important role historically and continue to do so. Only cases where these differences might get blurred is when demand is very high, and the jobs require heavy manual work. But the moment there is stability in those occupations social identities become very important. What we need to consider is not who does the work but who cannot do the that particular work. We then know who is prohibited from doing certain kinds of work.

What kind of role can NGOs and civil society organisations play in studying and addressing the concerns of workers both in times of crisis and normalcy?

When we talk of civil society organisations and NGOs, we need to look at what all we can include in these categories. The most immediate way in which these organisations can play a role is providing basic amenities to the workers. Another role could be supporting all organisations working for workers' rights. There are already small organisations and unions that are working on the issue of *labour*. Examples include those representing construction workers, domestic workers, and wide-ranging *informal* sector workers. The third role could be that of working closely with these organisations, preparing reports about their conditions, and getting them widely published. They could bring the *labour* issues to the realm of public debate, not just in times of crisis but also during normal times. This becomes important because the *labour* question has been pushed to the background since the late 1980s and 1990s in our country. Even today, when we are talking about *labour*, we are more interested in the migrant workers. While the crisis of migrant workers must be addressed, not all workers who face challenges are migrants. There are a lot of people living and working within the same city who face various challenges. The NGOs and other voluntary organisations could contribute towards such settled, non-migrant section of the workforce too. Lastly, these organisations can lobby with the government to improve the conditions of workers. To what extent NGOs and civil society organisations can help the cause of *labour* is a matter of debate. However, one thing is certain that initiatives by NGOs and civil society organisations can only provide limited and temporary assistance.

How much of a role are workers allowed to play in the making of policies concerning them?

If we are talking of workers' participation in policy making, we should be looking at workers' organisations and their representatives who are directly associated with workers. They could be part of the policy making. However, *labour* as a category now does not have political value anymore. That is, there is no constituency called *labour* to which various political parties must consider during elections. It is because of this we do not have *labour* leaders who go to the Parliament or assemblies and who can represent their cause. The absence of such leaders or representatives has an impact on the policies that are currently made by the government.

We often see articles and reports in newspapers suggesting a weakening *labour* movement and declining power of trade unions. Could you please help us understand this aspect a little more?

Till the early 1980s, *labour* movement played an important role, but it was mainly restricted to the *formal* sector. The *formal* sector has historically constituted less than 8 percent of the economy. Since the 1990s there is a trend towards the *informalisation* of the workforce – that is workers move from *formal* sector to the *informal* sector. This had a direct impact on the trade unions. Besides, the state is also making it difficult for the *labour* organisers. The current plans of the government to bring major changes in the *labour* laws is a case in point.

Are we talking of the decline of the communist party or the left in general, when we are talking about *labour* no longer being a political category?

To begin with, it is incorrect to exclusively equate communist or left parties with *labour* unions. They are important players but not the only ones. Historically, wide ranging trade unions have come from different political ideologies. There have been unions that are politically inclined towards various ideologies such as the socialists, the Gandhians, the anti-castes and Ambedkarites, the communists, the moderates, and the centrist Congress-led unions. Even the right-wing organisations such as the BJP and the Shiv Sena have their unions. In fact, each major political party ends up creating its *labour* union. In the past, each of these unions and their contestations with each other made *labour* an important political category. That is not happening today – part of the reason is the decline of *formal* sector employment.



Building on this, *labour* as a category becomes important for a political party irrespective of its ideology. *Labour* is important for the state per se. How then do you think can the state strike a balance between the investors and labourers, so that the state does not discourage investors and also does not burden the workers?

Usually this argument of striking a balance has come from either the scholars or the employers demanding flexibility of *labour* laws in India. Their argument has been that flexibility would lead to economic opportunities, growth leading to trickledown effect. But if we look at the trend in the last 70 years, since our independence, that has not been the case. Flexibility is also not necessarily going to help *labour* welfare. In fact, 92% of our economy has historically been part of the *informal* sector, which were in some way exempted from the state regulation. So, we should be cautious about this balancing argument.

Since we are talking about the enormous prevalence of *informal* sector in our workforce, do you think we lack clarity over the concepts of *formality*, *informality*, *organised* and *unorganised* sectors and the interlinks between them? Furthermore, do you think the lack of clarity is a main obstacle in framing of a clean and comprehensive *labour* policy?

One normally tends to conflate between *formal* sector and *formal* conditions of employment. Just because someone is working in the *formal* sector does not mean their conditions of employment are *formal*. Therefore, we need to understand what we mean by *formal* and *informal* sectors of economy and what constitutes *formal* and *informal* conditions of employment.

A firm running on electricity and having at least 10 workers needs to get registered which then is included in the *formal* sector of the economy. A firm with 20 workers without electricity on registration becomes a part of the *formal* sector. The moment one registers one's enterprise with the state, certain regulations need to be followed. Those that do not register or do not have to register are exempted from state regulation. Whatever stays out of the purview of state regulation is classified as the *informal* sector. By taking even the most generous estimate from the time of independence, the *formal* sector never constituted more than 8% of the Indian economy.

Moving to the second part, which is the conditions of employment. An individual is said to be employed on *formal* conditions when the concerned worker has a written contract and is therefore is entitled to minimum wages determined by the state; wages increases with inflation; working hours are also fixed; so is the nature of work expected from the employee. Most importantly,



workers have access to social security benefits including pension and healthcare benefits. As for the *informal* conditions of employment, they are characterised by absence of written contract, less than the minimum wage, working hours exceeding 8 hours a day, and absence of social security benefits, among others.

Within the *formal* sector of the economy, there are about 46.5 percent workers who have *informal* conditions of employment and 53.5 percent have *formal* conditions of employment. Likewise, in the *informal* sector around 99.6 percent have informal conditions of employment and 0.4 percent have *formal* conditions of employment. There has been a decline in the *formal sector* as well as those who are employed in the *formal sector* in *formal conditions*.

Since you mentioned that there has been an increase in *informalisation* of the economy, could you point out some reasons behind this trend?

The state's policy since the 1980s onwards has not been in the favour of retaining the *formal* sector. It actively facilitated the closure of large-scale industries. The employers too were keen on closing down the units due to higher costs of production and the *labour* unions. The result of these policies can be seen in the closure of the large-scale industries. One example, I am familiar with is the cotton textile industry in Mumbai that has shut down since the 1990s, retrenching thousands of workers. Same is the case with Ahmedabad, Kanpur, Kolkata, and other industrial centres in India. In fact, across the world, there has been a decline in the Fordist model of production. In the West, the decline had started from 1970s but there have been cases of closures in the recent years. In mid-2000s, the textile mills in Germany faced closure at the same time textile mills in Mumbai closed down. The closure in both cases was quite similar except that production moved to developing countries, whereas in case of India, the industries just got dispersed in the satellite towns.

What are your views on the increasing *contractualisation* of labour? How can contracts be aligned more with the interests of labourers?

We have a long history of contract *labour*. In the last two decades, there has been a movement of workers from *formal* to *informal* sector. When we are talking about *informalisation*, we are thinking about the 8% of our workforce. Even the government sector is moving towards *contractualisation*. The class three and four employees in the local, state as well as central level government are hired on contractual basis. This has been the dominant feature of labourers in the public sector. The irony is that public sector employment is the most sought after because of the security it offers.



Talking about ‘contracts’, we have to consider the contract *labour* act, 1970. The law does not allow contractual hiring of employees where work is perennial in nature. But employers continue to hire on contractual basis even for such kinds of work. The case of sanitation workers in municipal corporations across the country is a classic example.

What are your views on the way the government has handled the case of migrant workers in the backdrop of the pandemic? What recommendations would you make/suggest for the road ahead?

The government has failed to handle the pandemic situation. Part of the reason lies in the labouring class losing their political importance. The second aspect is about the Indian state is not quite a welfare state. The Indian version of welfare is not like the Western-European model, which was a product of the post second world war, wherein the state invested heavily in social welfare. But we did not invest as much or to a similar extent.

In the current context, the state could have provided basic minimum food grains and financial support. Most of the workers were forced to move because they had to pay rents to their landlords who were threatening to evict them. Even where they were not evicting them, no wages during lockdown meant their debt was increasing. These were the workers who had access to bare minimum wages. Without income, it became difficult for them to sustain beyond a month. Those advocating that workers should not move ought to realise that staying at the same place would only have increased to their debts significantly.

One of the solutions could be the affordable rental housing complexes. This is an interesting idea which looks feasible if there is enough political will to implement the scheme. But if we look at similar situations in history, the long-term solution to the current crisis seem less promising. In 1890s, the Mumbai city had to face bubonic plague which had similar effects on the economy like the current pandemic. Businesses were paralysed, offices were closed. There was a massive exodus of workers from the city to the countryside. There were reports of nearly half of the city’s population leaving the city, causing a huge shortage in supply of *labour* to the cotton textile mills. In the backdrop of such a crisis, suggestions for ‘sanitary housing’ came in from various quarters. Such an accommodation of workers within the city, it was believed, would have checked the sudden, massive exodus of people from the city. However, once the plague led crisis began to subside, the state did not bother to act on those recommendations. Now, to what extent the present government would work seriously on this front remains to be seen.



Migrant workers make a bulk of the lower end of the economy and have unimaginable contribution to the economy of big cities like Delhi and Mumbai. From domestic workers to taxi drivers, rickshaw pullers, vegetable vendors, newspaper sellers, milkmen and beyond- they are everywhere. Therefore, effect on them is bound to have tremendous impact on economy. It is therefore hoped that the state takes cognizance of this factor and works on the policies in place. However, it is difficult to conclusively predict the long-term plans and actions of the state given its historical record.

What is your understanding of the concept of *vulnerability*?

Vulnerability can be understood as the inability of an individual or a group to cope up with the surrounding- natural and human-made. All individuals and groups are prone to vulnerabilities- physical, mental, income-related, social exclusion based on gender, race, caste, ethnicity, and political disenfranchisement. The scope of *vulnerability* is very wide. But what is commonly examined is economic *vulnerability*. It definitely needs attention. But there are other factors too. Not every individual or group is evenly *vulnerable*. Within the migrant workers, for instance, more *vulnerable* are those who belong to the socially marginalised groups such as the women, Dalits, Adivasis, and Muslims. These things ought to be taken to account.

The Choice Between Capitalism and Welfarism in a Modern India

Prof. (Dr.) Atreyee Majumdar is a historical and political anthropologist with a focus on the impact of capitalism on space and time. She is currently working as Associate Professor at Jindal school of Liberal Arts & Humanities at O.P. Jindal Global University. Her monograph Time, Space, and Capital in India: Longing and Belonging in an Urban-Industrial Hinterland (Routledge 2018) addresses the intersection of time, space and capital through an ethnography of public life in an urban-industrial hinterland in eastern India. Although she has not specifically worked on 'labour', she has had her hands-on legal practice in basic rights like land and environment. Furthermore, as evident from her monograph, she has thoroughly invested herself in the idea of 'capital'. Together, these factors position her close to the idea of labour. Therefore, through conversation with her, the team got to scrutinize the subject from an anthro-legal perspective.

How do you think the concepts of *formality* and *informality* are related within the economy?

I think in the context of post-colonial countries or developing countries, the *formality-informality* question becomes a question of legality. There is a thin veil of legality that separates the *formal* sector from the *informal* sector. A certain kind of legal language is what gives the *formal* sector its *formal* identity and anything that falls short of that or spins out of the legality fold becomes *informal*.

Here attention might be drawn to the economist and political scientist, Anirban Acharya's work on the *informal* sector in Calcutta, especially after "Operation Sunshine". *Operation Sunshine* was an initiative carried out in Kolkata in the nineties. The CPI (M) government of that time evicted a lot of the *informal* sellers and hawkers selling things on the roads. These sellers were given a different space. They were given legality and a certain kind of *formality* that was not of any use because they were given place to sell their goods outside of the city, where there was no market. The only reason they treasured being part of the *informal* economy was being in the middle of the city where there was a market. Anirban calls it the second space of capital, which is an interesting formulation. But other than that, the difference could be said to be fundamentally that of legality in developing countries.

Could you please define the 'second space of capital' briefly?

The first space of capital is a place of manufacture, where things are manufactured. The second space is the right to sell. The second one is a different kind of way in which capitalism functions. It's also a place of capitalism to thrive but it is not a place of manufacture- it is neither a factory nor a sweatshop. In the second space of capitalism, the seller and the buyer are meeting *formally*, or sometimes *informally* on the road, in the shop and in other places. So, capital forms two registers of spaces and it is the second register of space in the *informal* sector what he calls as the second space of capital.

How do you see the *informal* and the *formal* sectors being related in India?

Well, they're definitely related. For example, if someone is employed in the *formal* sector, and has a permanent job, a contract, then she/he gets various kinds of perks and pensions which is not the case in the *informal* sector. But where does that person buy vegetables from? Where does she/he buy flowers from? Where do all the things for one's regular needs come from? Our daily needs are all supported by the *informal* sector. So the *informal* sector is propping up the formal sectors in a way and the *formal* sector cannot survive without the various kinds of services that are being rendered invisible, but useful by the *informal* sector. The invisibility of the *informal* sector is particularly important.

How can we understand *vulnerability* in India's context?

India's *vulnerabilities* in my opinion are generated by alignment of the government and the middle class. There is corporate capitalism, which is supported by the middle class and then there's a governmental apparatus. The two are aligned together, there's a liaison between the two that has completely alienated all interests of the underclass. Considering the example of farmers, there is no warehousing, there is no support pricing, there is no help to farmers, to grow the crops of their choice and sell it at a reasonable price in the market.

In short, there is no infrastructure to support the farmers, which is why things like farmer suicides and farmers' indebtedness is deeply embedded in rural Indian society. The other kind of *vulnerabilities* are still deeper and were possibly not there before the nineties. This is a post 1991 and especially a post 2000 development, that can be viewed as a deep apathy to any kind of welfarism. The government has deserted all mandates of welfarism, in considering the interests, the needs and entitlements, and especially the rights of the underclass. So be the person an *informal* worker or a farmer or a delivery boy, their interests and their

rights are completely negated and relegated to the background by the concerned apparatus of the government, which was not present before the nineties.

What are your views about the increasing *contractualization* of labour and how would you help one understand it?

To understand *contractualization* or to make one understand it, one has to keep in mind that this (India) is a labour dump. Our country, like many other developing countries, is a place where cheap labour can be found. Global capital works in a way that it's always sniffing around for cheap labour markets, and cheap resource markets. So, in this type of capital, capital will fly from places like New York or London to the place where it can manufacture at the cheapest cost. We are the ones who are offering cheap labour markets. Our governments are facilitating this kind of a climate and inviting this kind of investment. Our labour remains cheap because of *contractualization* because you do not have to pay pension, and there are no legal guarantees.

Further this can sustain only if a large number of companies want to exploit this cheap labour market. Subsequent governments have wanted to actively solicit foreign companies and multinational corporations to come here and invest. And they will only invest if it's a labour dump and if environmental and legal relaxations are available. The relaxation of legal safeguards for labour and environment go hand in hand, because of which they are able to provide a hospitable environment and a hospitable investment climate for global capital to fly to India. And this is the reason why *contractualization* is taking place and legal infrastructure is immaterial. What is material is the economic explanation of it, which is India being or trying to be a hospitable market for investors. Personally, I do not support it.

So, are there any ways that these contracts can be made more secure and aligned to the interests of the workers, while balancing the interests that the government has?

Well, the government's interests are aligned with the interests of big corporations in my opinion. Also, if one has seen the draft EIA (Environment Impact Assessment) 2020, it is completely evident that the government's interests are in the interests of the investor. If you try to make legal safeguards higher, like in European countries or in Scandinavian countries, what will happen is that their investment will no longer be in India. It will fly to Bangladesh or Azerbaijan or other developing countries. Hence, it is imperative for the government to keep *contractualized labour* and keep costs low so that it can tell investors that they will



reap a huge profit if they come to the Indian market. So, there is no mutually co-constitutive answer. If one has to happen, the other must go.

What do you think are the major gaps in India's labour law framework?

I am not a labour law expert, but I would say, *informalization* is the biggest threat. For example, today because of the pandemic, I cannot go to work but I can still get paid because I am formally employed. A person who is informally employed, on failing to go to work for some reason, just will not get paid. There is nothing, there is no money to take back home and feed mouths. I would say that is the biggest roadblock, wherein the economy is built in a way that *informalization* is constantly helping the economy, but the economy is not doing anything to help *informal* economy's victims.

What are your views on the way the government has handled the case of migrant workers in the background of the pandemic?

If one looks at Canada or the U.S., the U.S. despite Trump being in power, has sent out dole cheques to all citizens and even green card holders. And here, the migrants were not even being given free ration. It is one thing to say, we are a poor country, it's another thing to say we're a poor country which is only going to pander to the interests of corporate capital. Our government is not rich enough to give dole checks to everyone. But we do have the kind of money for our defence budget, which is increasing, or our various other kinds of heads of budgets which are increasing. If we relocate those kinds of increments, we can invest in welfare at least at a much higher level than we are doing right now. The migrants who were starving on the roads would not then have had to see that peril. After the nineties, especially after the 2000s, the concept of welfarism of any kind has been alienated from the governmental apparatus.

Could you suggest some alternative ways in which the government of India or the state governments could have addressed this situation better?

For instance, we wrote a letter to the UP (Uttar Pradesh) high court where we suggested the installation of hostels and of relief camps at various places where they (migrant labourers) were walking along the highway. We suggested that relief camps and hostels be built, on an immediate basis, which could have been done by converting schools and colleges, then use these structures to house them (migrant labourers) then and there, while they were walking home. And a lot of people were claiming that they want to get free ration to be given for some people, but it needs a ration card. Here again, it was the bureaucratic kind of a bottleneck. If they did not have a ration card or an Aadhar Card they would not



get the free ration. So, give those free rations to everyone, create relief camps then and there where people are walking; those were some of the things that the government could have done and especially state governments could have done. Even though the buses came, they came much later.

Recently the government talked about the need for affordable rental housing complexes. How do you think that ensuring basic necessities like housing would help the workers in the informal sector be less *vulnerable*?

The right to housing has been talked about and courts have discussed it before. Right to housing is an important right, but basic necessities like health, food, and primary education should assume priority. All of these are legally enshrined. There is a legal support to all of these rights within the constitution, but they are not implemented. So, it's one thing to have in a register of rights, new things added all the time. But all such rights are rendered meaningless if the government is not interested in any kind of welfare state system.

Could you give an example where such a basic necessity like education, food, or housing would help contribute to the welfare of the workers in the *informal* sector?

Unionization is an example. If there are health cards being given by the government, an ailing worker unable to take the fruit cart out on the road that particular day, can one, get health related benefits from a hospital. Secondly, if there is some sort of social welfare for *informal* sector workers, he/she can also claim social welfare. It is present in all welfare countries, from France to Scandinavia. India doesn't have to give a mammoth amount of welfare dole, but some dole requirements for *informal* sector workers would be of immense help, they should be especially supported in the health sector. Giving them a health card can play an important role.

So how do you think social factors like gender and caste play a role in driving migration between states or within states?

Migration has both, pull and push factors. Push factors are things that would happen in the hometown or village, which push one out of the village and pull factors are attractions from the destination one is going to, which pull one towards it. The attraction to go to a city like Bangalore or Bombay stems from the want to earn more money or a similar reason. An example of the push factors is that there is no employment in a person's village, all their crops have failed, or there was no monsoon, or rural indebtedness where they are in debt. All such things can be push factors. They definitely have a caste dimension in the way



that certain kinds of work in the cities are being done by certain castes, or people who oftentimes come from certain regions and certain villages. The caste dimension can be very easily mapped out into which industries are serviced by which caste. But on the gender issue, I'm not able to comment.

What role do you think civil society groups, NGOs, and social organizations can play in addressing the concerns of the workers, especially in a crisis like we're facing today?

Good ones do good work, and the others not so much. There are some very good NGOs and civil society organizations who are doing good work, but is it a substitute for government support? I do not think so. I think the government has to step in.

Can the *formalization* of the workforce be seen as the ultimate solution to addressing the plight of the workers?

No, I do not think the *informal* sector has to be *formalized*. They just have to be given certain kinds of support systems, like health cards, doles, and certain kinds of infrastructural support like unionization. They do not have to be *formalized*.

Like you mentioned health cards and doles, what are some other steps that can be taken to improve the working conditions?

Regularizing and giving permits so that they cannot be picked up by the police or be evicted easily from the streets. This would secure the rights of street vendors to the street and they can have a shop or have a cart in the city.

Once this pandemic is over, how do you think the migrant flux would affect the economies of the urban spaces?

Everyone is saying it is going to affect them very badly because a lot of the migrants do not want to come back. This particular class of labour, especially in the construction industry is particularly important, or for any kind of economic growth in the cities. And if they do not come back, these industries will suffer. So, it goes without saying that if they do not come back, economies would suffer. But I do think that they have the right not to come back and we should respect that.



Is there anything you would like to add to our conversation today?

I think the law is an instrument that creates marginality rather than always protects. We think of the laws as an instrument that protects against marginality. I think in the cases of countries like India, law creates marginality. So, it is the constant *formalization* that creates the weakness of *informality*. It is not that *informality* is created and then we create laws to correct it. The law itself creates *informality*.



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