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Extending labour inspections to the informal sector and agriculture

Priya Deshingkar

Overseas Development Institute
111 Westminster Bridge Road
London SE1 7JD, UK

What is Chronic Poverty?

The distinguishing feature of chronic poverty is extended duration in absolute poverty.

Therefore, chronically poor people always, or usually, live below a poverty line, which is normally defined in terms of a money indicator (e.g. consumption, income, etc.), but could also be defined in terms of wider or subjective aspects of deprivation.

This is different from the transitorily poor, who move in and out of poverty, or only occasionally fall below the poverty line.

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Abstract

Labour inspections could, in theory, improve labour standards and help countries move towards decent work goals and the elimination of chronic poverty. But, in practice, inspections are either not conducted or do not result in penalties for those who break the law. Using the case of India, and examining labour contracts and standards in selected informal agricultural and non-agricultural occupations, the author identifies the reasons for this state of affairs: corrupt and under-resourced labour departments; subcontracting arrangements where employer–employee relationships are difficult to prove; little political commitment to improving labour standards; and poor coverage of new categories of work by existing labour laws. The paper also documents how, in the absence of an effective labour inspection machinery, civil society organisations and the media have successfully mobilised consumers and NGOs in the West to put pressure on suppliers in global value chains to improve labour standards and eliminate child labour. Those sectors that are being watched include the garment industry, stone quarries, the carpet industry and cottonseed production, all of which have links with rich countries. But occupations in sectors that are not linked to the outside world, such as work in sugar fields and in construction, continue to violate labour laws with impunity. The author concludes that regulation is important in a context where employer–employee relations are highly unequal and where workers in the informal sector are adversely incorporated into markets and value chains. More political commitment from national governments and more resources from governments and donors are needed for improving labour standards, and conventional inspections need to be replaced by multi-party inspections involving the media, researchers, NGOs, advocacy groups and human rights organisations. The author also concludes that, contrary to popular belief, there is a need for new legislation for categories of work that fall outside existing legislation.

Keywords: Labour inspections, labour regulation, informal sector, agricultural labour, India, chronic poverty.

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Dr Priya Deshingkar is a Research Fellow at the Overseas Development Institute in London. She is a social scientist and has worked extensively on labour migration, rural livelihoods and poverty reduction in Asia and Africa.

Email: pdeshingkar@odi.org.uk



Contents

1 Introduction	4
1.1 Social exclusion and adverse incorporation	5
1.2 Labour market regulation: two schools of thought.....	6
1.3 Labour laws	7
1.4 Structure of the informal sector in India.....	7
1.5 Homebased workers.....	10
2 Structure of the labour inspection machinery within the Government of India.....	12
2.1 Loopholes in the law.....	12
2.2 Corruption within the Labour Department.....	13
2.2.1 Tacit agreements to obstruct labour inspections	13
2.3 Resource constraints within the Labour Department	14
3 Case Studies.....	14
3.1 Work in the garment industry.....	14
3.2 Domestic work	17
3.3 Construction work.....	18
3.3.1 Tribal construction workers from Southern Madhya Pradesh.....	19
3.3.2 Scheduled Caste construction workers from Mahbubnagar in Andhra Pradesh.....	20
3.4 Cottonseed production	21
3.5 Sugarcane cutting.....	23
4 New approaches to labour inspections	24
4.1 Garment supply chains: Gap Inc.	24
4.2 Seed supply chains: Bayer, Syngenta and Monsanto.....	24
5 Conclusions.....	27
References.....	28
Appendix.....	31
Appendix 1: Indian labour legislation	31
Appendix 2: List of persons interviewed	34



1 Introduction

Labour inspections have been viewed as an important way of ensuring that labour standards enshrined in The International Labour Organization (ILO) Conventions and corresponding national law are maintained. India ratified the ILO convention on labour inspection in industry as early as the 1940s but continuing violations of labour law have led to widespread disillusionment with the process, to the extent that various other actors, including journalists, NGOs and human rights organisations, have taken on the role of inspectors, as we discuss in the paper.

Now, once again, interest in labour inspections has grown – in 2006 the ILO proposed a new series of measures, designed to ‘reinvigorate’, modernise and strengthen labour inspectorates worldwide. However, tensions remain at the policy level, both internationally and within India. Labour market policy is highly contested: on the one hand is the neo-classical school of thought, calling for deregulation of labour markets to make them more efficient, and on the other is the interventionist approach, arguing for protective legislation for a poor and vulnerable workforce.

The thinking behind labour market regulation is that rules and controls on wages, job security and working conditions will ensure that workers are not employed on disadvantageous terms and this will contribute to improving their incomes and overall wellbeing. The arguments against labour market regulation highlight the barriers created to flexibility and downward adjustment of wages in response to economic shocks, which stifle profits, investment and growth. However, a well recognised problem with labour market regulation and inspections is that they are not applicable to the informal sector. The informal sector is the main employer of people in developing countries because it is often the only viable option for poor and chronically poor people.

The paper traces the arguments for and against regulation of labour markets and examines the difficulties in conducting inspections in the informal sector. Selected farm and non-farm occupations in the informal sector are discussed to show that conventional inspections have had little impact and other actors, such as the media, NGOs, advocacy groups, researchers and activists, have been more successful. The paper begins with a discussion of the analytical framework of the paper based on concepts of social exclusion and adverse incorporation brief. This is followed by an overview of labour regulation theory and legislation, outlining the arguments for and against regulation. An introduction to the structure of the labour inspection machinery within the Indian government is also provided. Next, the structure of the informal economy is discussed, with particular attention to homebased workers. The following section discusses in detail informal employment in the garment industry, which employs large numbers of young women and men from socially



disadvantaged and excluded groups, domestic work, which is not properly covered by law and employs large numbers of tribal girls, construction work, which is more visible but where employer–employee relations are highly unequal and workers belong to socially excluded groups, cotton seed farming, which uses large numbers of child workers from socially excluded and chronically poor households, and sugarcane harvesting, which employs tribal people from poor households. The paper shows how conventional inspections have failed in all of these cases. It then goes on to describe how consumer pressure, investigation by journalists, NGOs, human rights organisations and researchers have succeeded in bringing about change in certain occupations, especially those that are part of a global supply chain. The paper ends by arguing that inspections need to move towards such a multi-party approach.

1.1 Social exclusion and adverse incorporation

At the lowest tier of almost any enterprise in India are numerous casual workers, who can be hired and fired as required without any protection under law. Casual workers are often recruited by agents and middlemen through complex subcontracting arrangements, so that the relationship between employers and employees is fudged, accountability is not clear and claims by workers for compensation or insurance cannot be fulfilled. A majority of these casual workers earn less than the official minimum wage and work in conditions that contravene labour laws. Although their labour contributes to the economy, they are excluded from the society in which they live. The relationship between such workers – typically belonging to poor Scheduled Caste and Scheduled Tribe households – and their employers – typically belonging to wealthy educated and higher social strata – is highly unequal.

Concepts of social exclusion and adverse incorporation are especially useful in understanding the processes by which these workers remain poor and why the system of labour inspections has failed them. Social exclusion is defined as 'the process through which individuals or groups are wholly or partially excluded from the society in which they live' (de Haan and Maxwell, 1998). The connection between social exclusion and chronic poverty has been examined across geographical locations and occupation groups and it confirms the thesis that socially excluded minorities and groups of people (because of their religion, caste or ethnicity) are among the poorest of the poor. Social exclusion approaches recognise the importance of history and politics in shaping poverty and deprivation (Hickey and du Toit, 2007), and here it is very useful to understand how historical patron–client relationships have shaped current forms of employment. A related concept is that of adverse incorporation, which draws attention to the ways in which the poor relate to the market, society and the wider political system. Adverse incorporation explains why the poor remain poor for long periods of time, because of the way in which their livelihood strategies are enabled and constrained by economic, social and political relations over both time and space, and at multiple spatial levels, from local to global. As we will see in the occupations discussed later



in the paper, inequalities of power shape the social relations that characterise certain occupations.

1.2 Labour market regulation: two schools of thought

An underlying premise throughout this paper is that some degree of labour regulation is essential in contexts where relationships between employers and employees are highly unequal and poor workers have found it difficult to break out of chronic poverty due to social exclusion and adverse incorporation in labour markets. However, there are arguments against such an approach and it is important to discuss them briefly here. There are broadly two schools of thought in labour economics: the deregulation school and the structuralist or regulation school. Proponents of deregulation argue that reforms are needed to enhance flexibility of the workforce, which will lead to increased competitiveness, economic growth and employment (Burki and Perry, 1997; ADB, 2005). This school believes that protective legislation leads to misallocation of resources because it does not allow wages to adjust to the marginal productivity of labour; it does not allow labour markets to adjust to economic shocks; it takes away economic rent from capitalists towards labour and reduces profits, which reduces investment and, ultimately, growth (Besley and Burgess, 2004; Forteza and Rama, 2002 quoted in Jha and Golder, 2008). Minimum wages in particular have been blamed for worsening unemployment by setting prices above market clearing levels. The ADB argues that downward wage flexibility, especially for less skilled workers, is important for maintaining levels of employment and growth.

However, others maintain that labour markets in developing countries are highly imperfect. They draw attention to entrenched inequalities in power between employers and workers. If left alone, market forces in such contexts often lead to exploitation and unfair outcomes, which ultimately impact on human development and growth. They argue that protective legislation can improve productivity and lead to decent work, particularly for vulnerable groups of workers (Jha and Golder, 2008; Standing and Tokman, 1991). Furthermore, protective legislation can boost economic demand, growth as well as employment (the Keynesian argument). Finally, labour standards could put pressure on employers to improve productivity of their workers through training or technical innovations (Freeman, 1993) and lead to a high wage, high productivity path to competitiveness and growth, rather than just cutting costs through lowering wages and working conditions.

A number of recent studies on Indian labour laws have concluded that they are highly protective, making labour markets relatively inflexible (see, for example, Fallon and Lucas, 1991; Basu, 2005). However, these studies apply mainly to the formal sector and have based their analyses on the Industrial Disputes Act and similar legislation.

1.3 Labour laws

India probably has the most comprehensive legal structure for labour welfare and protection in the world. There are roughly 45 central laws and 170 state statutes related to labour regulation. A list of the major laws can be found in Appendix 1. Many laws have followed directly from Conventions framed by the ILO. Whenever an ILO Convention is framed, signatory countries may ratify the Convention and frame corresponding laws in their own legislative system. India has ratified the ILO Convention (No. 81) on labour inspections in industry (1947). India has also ratified several other important Conventions related to minimum wages, equal wages and payment of wages, and has introduced legislation accordingly. Labour inspections are carried out under these laws. Inspections are meant to uphold provisions related to hours of work, wages, safety, health and welfare, and employment of children.

India has not ratified the ILO Convention on labour inspections in agriculture (No. 129) (Rao, 2007). This is probably due to the fact that the government does not consider the Convention applicable to a sector where most activity is in the informal sector. In fact, many laws were originally enacted to regulate labour relations in the formal sector, which was characterised by relatively stable employer–employee relationships. As we demonstrate later in the paper, these laws are not easily applicable to the informal sector, with its unclear and changing employer–employee relations, hidden work premises and workers, and temporary work contracts that are often not written down. The ILO does recognise the problem and states in a recent publication on labour inspections:

It is clear that the terms of the ILO instruments on this subject draw on the experience in the formal sector whereas, in many countries of the world, formal employment relations apply only to a small minority of the population and the mandate of the inspectorate simply does not extend to the vast informal economy where conditions of work are generally poorer. (ILO, 2006)

Although inspectors are empowered to cover several categories of informal worker through a number of basic laws (on minimum wages, equal wages for men and women, laws covering contract labour and migrant labour, and so on), in practice informal workers are not properly covered, for reasons that we discuss later in the paper. Thus, despite having one of the most comprehensive labour legislative frameworks in the world, India continues to suffer from widespread violation of labour laws.

1.4 Structure of the informal sector in India

Post-World War development discourse refers to the informal sector as a transient step towards a modern economy. However, decades of development experience have shown that the informal sector is here to stay. The informal sector in India now accounts for 93 percent of all workers, and contributes around 60 percent of the GDP. There were 361.7 million



informal workers in India in 1999–2000, and this figure had grown to 422 million in 2004–05. This includes both workers that are employed in informal enterprise and those who are working for formal enterprises but without formal employment contracts. The term ‘informal economy’ has been used differently by different researchers and development practitioners. It broadly represents workers who have jobs outside the formal sector (i.e. with written contracts under employment laws applicable to different industries and enterprises). We follow Chen’s (2005) definition of the informal economy, which is comprised of the following groups of workers:

Self-employment in informal enterprises, including:

- agriculture employees;
- own-account workers;
- unpaid family workers.

Wage employment in informal jobs: workers without formal contracts, workers’ benefits or social protection, working for formal and informal enterprises, for households or with no fixed employers, including:

- casual or day labourers;
- domestic workers;
- unregistered or undeclared workers;
- temporary or part-time workers;
- industrial outworkers (home-workers).

The National Sample Survey conducts surveys on employment and unemployment, which include informal workers in both the informal/unorganised sector and the formal sector. The unorganised sector comprises:

- Own Account Manufacturing Enterprises (OAME) – manufacturing enterprise operating with no hired worker employed on a regular basis;
- Non-Directory Manufacturing Establishments (NDME) – units employing fewer than six workers, including household workers; and
- Directory Manufacturing Establishments (DME) – units employing six or more workers, with at least one hired worker but not registered under the Factory Act.

Data on informal workers is available from two rounds: 1999–2000 and 2004–05 (see Table 1). The term ‘informal sector’ was used for the first time in the 55th round (1999–2000). There were 361.7 million informal workers in 1999–2000. The latest data available are from the 61st round 2004–05 of the National Sample Survey. These indicate that the number of

informal workers was more than 422 million in 2004–05, up from 361.7 million 1999–2000, or an increase of 61 million in five years. To put it into perspective, this number is more than the population of several European countries. Given that these data are already four years old, it is possible that at least another 50 million have been added to the informal workforce since the last enumeration.

Of the 422 million informal workers in 2004–05, 393 million were informal workers in the informal sector and 29 million were informal workers in the formal sector. This latter category is the one that would include workers in large construction firms, manufacturing companies and export houses low down in the value chain.

Table 1: Sector and type of employment, all workers 1999–2000 and 2004–05

Sector/worker	Total employment (millions)		
	Informal workers	Formal workers	Total
	1999–2000		
Informal sector	341.3 (99.6)	1.4 (0.4)	342.6 (100.00)
Formal sector	20.5 (37.8)	33.7 (62.2)	54.1 (100.00)
Total	361.7 (91.2)	35.0 (8.8)	396.8 (100.00)
	2004–5		
Informal sector	393.5 (99.6)	1.4 (0.4)	394.9 (100.0)
Formal sector	29.1 (46.6)	33.4 (53.4)	62.6 (100.00)
Total	422.6 (92.4)	34.9 (7.6)	457.5 (100.00)

Note: Figures in brackets are percentages.

Source: NSS Rounds 55 (1999–2000) and 61 (2004–05) Employment and Unemployment Survey.

A sector-wise breakdown shows that the proportion of informal sector workers is highest in both rural and urban areas in wholesale and retail trade and repairs, as well as hotels and restaurants (Table 2). As expected, manufacture, transport and construction also have a predominantly informal labour force, especially in rural areas. Mining and quarrying shows most of the informal workers to be in the rural sector, where smaller, privately-owned mines are located. Overall, the data show that there are more informal workers in rural areas than in urban areas, and among rural informal workers more women than men, a fact that has been noted by analysts explaining the greater vulnerability of women in the workforce.

Comparisons between the 55th 1999–2000 and 61st 2004–05 rounds show a faster pace of informalisation of the workforce in some industries (Table 2). In urban areas, construction showed marked informalisation. There was also an increase in female workers in construction and financial intermediation. In rural areas, increases in informalisation were more marked in community, social and personal service activities, real estate, renting and business activities, transport, storage and communications, and construction.

Table 2: Proportion (per 1,000) of *informal sector* (proprietary and partnership) workers according to usual status (principal and subsidiary) within each industry group/tabulation category during 2004–05

Categories	Rural			Urban		
	Male	Female	Person	Male	Female	Person
C Mining and quarrying	719	798	736	247	430	257
D Manufacturing	859	916	881	779	904	810
E Electricity, gas and water supply	87	112	88	94	11	88
F Construction	800	718	791	870	887	872
G Wholesale and retail trades; repair of motor vehicles, motor cycles and personal and household goods	937	957	939	952	922	949
H Hotels and restaurants	940	933	939	941	964	945
I Transport, storage and communications	830	671	826	736	483	728
J Financial intermediation	284	486	302	288	178	270
K Real estate, renting and business activities	869	785	864	776	643	761
M Education	267	285	274	323	412	366
N Health and social work	601	364	520	544	423	495
O Other community, social and personal service activities	853	932	870	814	896	834
All	792	864	816	739	654	722

Source: NSS 61st round (2004–05) Report No. 519 (61/10/7) *Informal Sector and Conditions of Employment in India 2004–05 (Part – I)*.

However, some occupations that are now employing larger and larger numbers of people, such as domestic work, are not adequately covered by the unorganised sector surveys. This could be due to the difficulties in classifying their activities as enterprises. Also, it has been noted by experts on informal employment that street-based occupations and seasonal occupations are underestimated by the NSS (Unni, 2002).

1.5 Homebased workers

One subcategory of informal workers that has attracted considerable attention in the discourse on chronic poverty is homebased workers, because of the close association between homebased workers and chronic poverty (Doane, 2007). Homebased work is often the only option available to poor women, who are required to remain within or close to the household due to gender-designated responsibilities and other concerns and restrictions. Their lack of access to resources, information, and the means to develop a wider range of skills makes them highly vulnerable to economic shocks.

The NSS included questions on the place of work and the nature of the work contract in the 1999–2000 round, which showed that there were 27 million homebased workers in India



(Unni, 2002). The ILO framed a convention on homeworkers in 1996, but this includes independent own account workers. In India policymakers, especially the National Commission for Unorganised Sector Workers, have been concerned mainly with those homeworkers who work in a system of outsourcing or subcontracting for manufacturing units, and have labelled them 'homebased workers'. India has not ratified the ILO Convention on homeworkers, possibly because it feels that it applies mainly to those who are self-employed. While there are laws for specific categories of homebased workers in India, such as Bidi (country cigar) workers, many categories of homebased work are completely outside the law.

Some measures have been taken to fill this gap – for instance the recently passed Unorganised Sector Social Security Act. However, the Labour Department has not been able to enforce any regulations related to the Social Security Act, because the rules have still not been framed and a Notification in the Official Gazette has not been made.¹ Once the central government frames the rules, state governments will follow. Workers will need to be registered and a Board will be constituted. The entire implementation process could take several months or even years. Other measures include the extension of the the Minimum Wages Act to cover some sections of homebased workers, such as *agarbatti* (incense) workers and garment workers (Sinha, 2006) but the need for new legislation remains. Homebased workers suffer from isolation and social exclusion (see below for discussion on social exclusion) on account of belonging to social minorities and lower social strata. They have low and erratic incomes and are often among the poorest of the poor.

¹ This information was obtained from a circular, dated 25 March 2009, issued by the Labour Commissionerate in Bangalore



2 Structure of the labour inspection machinery within the Government of India

In 1945, the Government of India (GOI) set up the Central Industrial Relations Machinery (CIRM) and appointed a Chief Labour Commissioner to head it. The function of the CIRM was to settle industrial disputes, enforce labour laws and promote the welfare of workers in undertakings falling within the sphere of the Central Government. The CIRM has 253 field officers, and their establishments are spread over different parts of the country with zonal, regional and unit level formations.

In addition to this, the GOI established 18 state-level offices, each headed by a Regional Labour Commissioner. There are roughly 70 Assistant Labour Commissioners (ALCs) working under the Regional Labour Commissioner and they act as inspectors under all the enactments, except the Equal Remuneration Act and Payment of Gratuity Act. They function as Registering and Licensing Officers under the Contract Labour (Regulation & Abolition) Act, Building. In addition, ALCs have to do verification of Trade Union Membership, and the Ministry also asks them to conduct inquiries/investigations into complaints received from unions and workers.

Labour Enforcement Officers under the CIRM carry out regular inspections under various labour laws, but only in central government establishments, such as the railways, ports and mines. State Labour Departments have labour inspectors who are empowered to carry out inspections in both public and private enterprise. Labour inspectors can enter premises without an appointment and can interrogate an employer. They are empowered to take steps necessary to remedy any defect, subject to appeals (Article 13 quoted in Khan, 2005). The labour inspector reports to the central office and this in turn reports to the ILO.

But labour inspections have not yielded the results that they were supposed to. A complex set of problems has plagued the labour inspection machinery, including resource shortages, corruption, difficult procedures and categories of informal work that are not covered by law.

2.1 Loopholes in the law

Many laws have clauses related to the number of employees, so that employers can escape them by keeping the number of workers below a certain threshold. Take, for example, the Industrial Disputes Act, which cannot protect workers in establishments employing fewer than 50 workers, or the Industrial Employment (Standing Orders) Act, which does not apply to any enterprise employing fewer than 100 workers. Different number filters are used for different categories of workers under the same Act. The Factories Act provides for the health, safety and welfare aspects of workers while at work in factories, and even an establishment with ten workers and an electricity connection can be covered. But crèches are provided under the Act only if there are 30 or more women workers; rest rooms only if there are 15 or



more workers; a canteen for 250 or more workers, and an ambulance, dispensary, medical and para-medical staff if there are 500 or more persons employed.

The structure of the industry has evolved to allow employers to escape regulations by keeping numbers within a single unit below the threshold. According to the Fourth Economic Census, more than 97 percent of the enterprises employ fewer than ten workers, many employing fewer than five (Chandra, 2008). In such cases, only laws offering almost universal coverage, such as the Minimum Wages Act, apply.

The bulk of manufacturing in India is done through small-scale manufacturing units or homebased workers. Companies making electrical equipment or machinery now routinely produce different components in completely separate industries. This delinks the different stages of the production process and makes it difficult to implement labour law. Workers may not even know which product the component is being made for (Sindhu, 2006).

2.2 Corruption within the Labour Department

Labour inspection procedures are complex, and firms are rarely aware of all the legal requirements that they have to comply with. Inspectors rarely provide them with this information freely (Rastogi, 2002, quoted in Ahsan *et al.*, 2008). There is strong evidence of widespread corruption in the Labour Department, with inspectors accepting bribes for reduced enforcement. The Investment Climate Survey of 2002 provides clear evidence, based on interviews with firms across the country, on the effectiveness of bribes in reducing visits by labour inspectors. The overall conclusion is that inspectors do little to enforce the law and there is collusion between employers and inspectors to evade the law. Unions have had little impact on this trend. Overall, the number of inspections conducted relative to the number of factories has dropped in the post-reform period (i.e. post-1991) (Mazumdar and Sarkar, 2008). One reason for this is the growing inefficiency of the system: labour courts and tribunals are overcrowded. The average duration of proceedings in labour courts is ten years and, when appeals are included, dispute settlement takes 20 years (Khan, 2005).

2.2.1 *Tacit agreements to obstruct labour inspections*

Research by the Institute for Human Development in New Delhi, a leading think tank on labour issues, suggests that several states have deliberately relaxed the enforcement of labour laws in order to create flexible labour practices at the ground level. Some states have issued directives to prevent or hinder inspection of firms. Sharma (2006) cites the example of Uttar Pradesh, where labour inspectors can carry out inspections only after the prior consent of an officer of the rank of Labour Commissioner or District Magistrate, which makes the procedure cumbersome. The states of Rajasthan and Andhra Pradesh have reduced the scope of labour inspection, and have exempted several establishments from the purview of labour inspection (Sharma, 2006: 2083).



2.3 Resource constraints within the Labour Department

Labour Department staff claim that they cannot conduct the required number of inspections, due to a lack of resources and power. A senior researcher at the VV Giri Labour Research Institute, which is under the Ministry of Labour, commented: 'the Labour Department is the underdog, it does not have enough resources. One labour inspector has to cover a population of 800–900,000. Moreover, villages are scattered and officials without vehicles cannot do much.' This is despite the fact that Article 11 of the Convention of Labour Inspection states categorically: 'they shall be provided with local offices and suitable transport facilities for the effective conduct of inspections' (Khan, 2005). The same researcher from the VV Giri Institute observed that labour inspectors have no executive powers and have to defer decisions to the Revenue authorities or district magistrates. The Labour Department also appears to be facing difficulty in filling posts. According to recent media reports, some of the posts have not been filled for more than two decades ('Staff crunch cripples Labour Department', *Times of India*, 12 September 2008).

Next, specific examples of informal sector occupations are discussed below. They illustrate the many ways in which labour laws are evaded by employers and show how a corrupt and ineffective Labour Department has led to a situation where bribes and violation of labour laws are commonplace. Certain occupations are outside the law and these illustrate the need for new legislation.

3 Case Studies

3.1 Work in the garment industry

The textile and garment industry in India is a major foreign exchange earner and provides direct employment to around 35 million people.² The textile industry is extremely complex in its structure, with handlooms and homebased production at one end of the spectrum, and large factories at the other. The garment industry, a sub-sector of the textile industry, employed 1,001,000 workers in 2004 (Mezzadri, 2008). While the number of workers in formal employment is going down, due to fewer registered factories, the numbers in small and unregistered units is growing and employers often choose to employ migrants because they are easily controlled (Ghosh, 2001). Garment workers can be homebased, as in the Delhi garment industry, or factory workers, as is the case in the Bangalore garment industry.

² Estimates of textile workers from Ministry of Textiles, see http://texmin.nic.in/msy_20010621.htm (accessed 23 July 2009).



Garment units employ large numbers of women migrants. A study of three major garment centres, Delhi, Tirupur and Mumbai, based on fieldwork conducted in 2000, found that units employ mainly migrant women in the age group of 21 to 30 (Krishnamoorthy, 2006). A majority of the workers are Hindu and belong to the backward castes. A number of practices are used by employers to evade labour laws. Subcontracting has become widespread, with several layers of contractors and subcontractors, which make law enforcement difficult because the employer–employee relationship is not clear. Workers are employed on a casual basis and are vulnerable to being fired without notice or other compensation. Companies prefer subcontracting because it gives them the flexibility to hire or dismiss workers as required in a rapidly shifting demand situation. There are some parts of the industry where poorer and more vulnerable workers are employed, such as children in embroidery units (see Box 1).

Box 1: The garment industry in Delhi

The Delhi garment industry accounts for 35 to 40 percent of the value of the country's total garment exports. There are an estimated 3,000 to 4,000 production units where poor, first generation workers are hired by contractors known as *thekedars* from rural areas. Migrant workers are preferred because they do not pose the threat of unionisation. The workers stay in the city for the production cycle and then return to their villages (Mezzadri, 2008).

Thousands of children from chronically poor families are employed in embroidery units. Many of the workers are Muslim boys and young men from Bihar, who work in small units in villages outside Delhi. Workers are paid piece rates and are almost completely invisible in the global supply chain. Interviews and group discussions with migrants in sending areas of Bihar show that these jobs are regarded as well paid and have helped many families to accumulate assets and repay debts (Deshingkar *et al.*, 2006).

The garment industry around Delhi has become so adept at escaping regulation that even trade unions do not work with them (personal communication, Dr Rukmini Rao, well known researcher and activist on gender issues). Units are closed down and shifted all the time and it is almost impossible to prosecute employers. They also change their names frequently – so much so that many of the workers interviewed by Krishnamoorthy did not even know the name of the company that they were working for (Krishnamoorthy, 2006).

However, the recent expose of child labour in the supply chain of the garment retailer Gap has led to a series of measures that will help to reduce the numbers of children employed in this industry. (see pages 24-25 of this document).

Workers under subcontractors rarely receive benefits such as a Provident Fund (a government savings/pension scheme, to which both employees and employers contribute) or ESI (the Employee's State Insurance scheme, which offers health and insurance benefits).³

³ The Employees' State Insurance Act, 1948: 'An Act to provide for certain benefits to employees in case of sickness, maternity and employment injury and to make provision for certain other matters in relation thereto'.



More than two-thirds of the workers in the units surveyed by Krishnamoorthy did not have any access to a Provident Fund.

Another technique used by employers to escape labour laws is to keep the number of workers small by splitting their operations into several units. This allows them to evade certain laws which are applicable to units employing more than a certain number of people. In Mumbai and Tirupur, units employ 21 to 100 workers, and in parts of Western India, units have only 11 to 15 workers (Unni and Bali, 2001).

Garment work is characterised by long hours, and a lack of health and welfare benefits, minimum wages or job security. Production targets are harsh, and verbal and sexual abuse are widespread (RoyChowdhury, 2005). Work-related illnesses and disorders include headaches and stress-related fatigue, back problems, disturbances of the menstrual cycle, repetitive strain injury, loss of weight, respiratory problems, kidney and bladder infections from retaining urine for long periods of time, and sinus problems and allergies from the dust and materials used. Workers do not divulge information on their conditions of employment because anyone who divulges information during labour inspections is given no further work from the next day (Unni and Bali, 2001).

Homebased workers are particularly difficult to bring under the purview of inspections because, as we discussed earlier, they are often outside the law. The National Homemaker Group (NHG) has been working to improve their bargaining power through education, insurance and record-keeping training, skill diversification training and savings and credit schemes. The inequality of power and the nexus between employers and the government is evident from the case of an export unit in Bangalore which has recently been in the news for violating labour laws. After receiving complaints from workers in the washing unit of an export company, several unions, including the Garment and Textile Workers' Union (GATWU), Women Garment Workers Front, Civil Initiatives for Development and Peace (CIVIDEP), the New Trade Union Initiative (NTUI) and the Clean Clothes Campaign Task Force in India conducted interviews at the factories. The interviews revealed that workers were subjected to serious physical abuse and psychological intimidation; they were forced to meet high production targets, resulting in unpaid overtime, and were fired without warning if management was not satisfied with production speed. Workers also reported a lack of letters of employment, crèches, rest rooms and canteen facilities, identity cards, and safety measures. The garment company filed a case against the unions and they have been banned from disclosing any information about the labour situation in the factories to organisations abroad. What is noteworthy in this case is the efficiency with which the ban against the organisations is being implemented, quite unlike the implementation of laws for protecting the interests of labourers.

Where women's rights organisations have been involved in campaigns by NGOs for garment workers' rights, more tangible successes have resulted. In Bangalore, for example,



intervention by the National Women's Commission resulted in improved toilet facilities, a limit on working hours and reduced harassment by the management (RoyChowdhury, 2005). However, by far the most far-reaching improvements have resulted where international consumer pressure, precipitated by media reports, has forced large companies to clean up their value chains. We review some examples later in the paper.

Next we discuss the situation of domestic workers, a category of workers almost completely outside the law.

3.2 Domestic work

With the rise of the middle class in India,⁴ domestic work has emerged as an important new occupation for women and girls from poorer parts of the country. Some 20 million people (mainly tribal women and girls) migrate for domestic work to Mumbai, Delhi and other large cities from the eastern states of Bihar, Orissa, Chhattisgarh, Jharkhand, Assam and Mizoram (SCF, 2005). Most tribal domestic workers are employed through placement agencies and these have mushroomed in Delhi. Subhash Bhatnagar, who runs a union for unorganised sector workers in Delhi, estimates that there are 100,000 to 150,000 girls in domestic work in Delhi and 40 percent are younger than 14. He feels that such girls are highly vulnerable to maltreatment, especially if they are living in – their wages are paid to the agency to send on to their families in source villages, and their working and living conditions are extremely difficult to monitor. If there is a problem, then the placement agencies – often an individual with a mobile phone – are almost impossible to prosecute. Furthermore, the Police or Labour Department officials cannot enter homes to inspect work conditions.

The key issue here is the highly unequal relationship between the workers, who are poor and uneducated, and their employers, who are typically middle class or rich urban residents. A study of domestic workers in Delhi shows that, although domestic work has brought higher incomes to many women and their families, it is still far from decent work because it is characterised by long working hours, low wages and hardly any social security (Neetha, 2004). The study covered 465 women in part-time domestic work living in three settlements in Delhi.

Domestic workers are more vulnerable than other kinds of workers because they are not officially classified as unorganised sector (Kundu 2008) workers at all and are therefore not covered by laws that apply to workers. Maharashtra is the only state with a law covering domestic workers – the Maharashtra Domestic Workers Welfare Board Act 2008. Under this law, domestic workers will be registered; there will be a welfare board and also a grievance

⁴ According to the National Council for Applied Economic Research, 13 percent of India's population will have an annual income of £2,439 to £12,500 by 2009–10, compared with only three percent in 1995–96.



redressal mechanism. Domestic workers would be entitled to maternity benefits, health insurance and educational aid for their children. However, the law has a number of shortcomings, which raises questions over the level of commitment to improving domestic worker conditions: first, only workers will be registered and not employers; second, the mechanism for collecting worker contributions is not clear; third, the law covers only those who are in the age group of 18 to 60; and, finally, there are no funds for the board. In some other states, namely Andhra Pradesh, Karnataka, Tamil Nadu, Kerala, Bihar and Rajasthan, orders have been issued to bring domestic workers under the Minimum Wages law, but for the majority of domestic workers there is no labour law. This is a clear case for framing new legislation – indeed the National Commission for Women, together with some NGOs, has proposed national legislation to cover domestic workers. But there is little interest at the central government level in such legislation.⁵

There are categories of workers who are more visible than homebased workers and domestic workers, but who are nevertheless employed in poor conditions, without any protection under law. The example of construction workers is discussed below to provide insights into the power and social exclusion dynamics of recruitment, and how this results in a system where labour inspections are unheard of and labour laws are never observed.

3.3 Construction work

The construction industry provides direct employment to at least 30 million workers in India (Chen, 2007). Although the Construction Workers (Regulation of employment and conditions of services) Act 1986 was passed to ensure that construction workers are provided with registration, a welfare board, healthcare, social security, minimum wages and crèche facilities, the situation on the ground is that construction workers do not have access to social security,⁶ compensation for injuries, access to drinking water or healthcare. Labour unions regard the construction sector as one of the most unregulated sectors in the country (Mody, 2004). Accident rates are high – in fact India has the world's highest accident rate among construction workers – a recent ILO study shows that 165 out of every 1,000 workers are injured on the job (quoted in Sarde, 2008).

Living conditions at construction sites are appalling. Harassment by the police, urban authorities and contractors is common. Women and children in the construction industry are highly vulnerable in a variety of ways: one study of 800 migrants in urban areas of Tamil

⁵ Editorial in *Economic and Political Weekly*, 'Protection for domestic workers', XLIV (7), 14 February 2009.

⁶ The newly passed Social Security for Unorganised Sector Workers bill may provide some benefits, but how effective the implementation will be remains to be seen.

Nadu notes: 'among the mothers who take their child to the workplace, 62 percent have breastfed their children with supervisors shouting at them'.⁷

The construction sector provides a perfect illustration of how inequality and power relations distort market outcomes in favour of employers and leave workers with limited options for breaking out of poverty. We discuss two separate groups of construction workers below, to provide insights into the way in which construction companies and contractors employ poor and vulnerable workers from remote parts of the country.

3.3.1 *Tribal construction workers from Southern Madhya Pradesh*

Madhya Pradesh (MP) has ranked among the least developed states in India. It has the largest population of Scheduled Tribes of all states and a high proportion of Scheduled Castes. Landlessness, nominal and unproductive landholdings and the inability to invest in farming continue to characterise the tribal population of the state. Tribal and forested areas of Madhya Pradesh have been identified among the 15 pockets of chronic poverty in India (Shah, 2007). Migration has long been a livelihood strategy for tribal people from the southern districts (Mosse *et al.*, 1997). Until about 2005, the recruitment of migrant construction workers from this area was largely done by agents locally known as *mukkaddams*. *Mukkaddams* provide the labourers a cash advance to help the family left behind in the absence of the migrant. Recruiting workers against advances is one of the basic features of bonded labour and this system of recruitment has been interpreted as a form of bondage in the literature (Mosse *et al.*, 1997). The advances are repaid through migrant wages, which are at a level that does not allow easy and quick repayment. Construction labourers work long hours in harsh conditions; injuries are common and there is inadequate medical assistance or compensation (Mosse *et al.*, 2002). Water, fuel, sanitation and security are major problems. A study by DISHA, an NGO in Gujarat, found that over half the migrants slept in the open and the rest had very perfunctory accommodation. They face harassment, abuse, theft, forcible eviction or the demolition of their dwellings by urban authorities or police. The sexual exploitation of women by masons, contractors, the police and others is routine but unreported by women, for fear of the consequences (loss of employment, violence). Although unions have taken up the cause of such workers, many do not register with unions because of their continuously changing work destinations.

Mukkaddams are almost never registered with the government, although they are required to do so under the Inter-state Migrant Workmen Act (ISMWA) of 1979. The Act makes it mandatory for contractors to register themselves and their workers and to provide workers with decent accommodation, crèche facilities, access to healthcare, and minimum wages.

⁷ The study was conducted by TN-Forces (Tamil Nadu Forum for Crèche and Childcare Services); the quote is from an interview with a Ms Bhuvaneshwari, a TN-Forces staff member involved in the study, published in *The Hindu*, 'Migrant woman labourers facing economic disparity', 30 April 2002.

Activists and researchers of labour laws⁸ say that it is extremely difficult to prosecute agents from one state in another state. Although it is well known that the ISMWA has not been properly implemented, there is no political commitment to improving this situation. The lack of political interest can be explained by the fact that poor migrant workers do not matter in elections; they are at the destination only temporarily, and thus rarely have voting rights or any other powers that would be of consequence for politicians and industrialists.

According to Mody (2004) there is a nexus between big business, government and political parties because the construction industry is one of the largest sources of 'black money', which is used for financing political parties. The parties repay the construction companies by granting them access to land, large contracts for public works and illegal building transactions. If there is a dispute, it is the workers who are intimidated by the management and harassed by the police. Physical violence and evictions are common and employers are never prosecuted. Subcontractors absolve the companies of any responsibility to provide workers with benefits under labour law and keep costs low by paying low wages.

3.3.2 *Scheduled Caste construction workers from Mahabubnagar in Andhra Pradesh*

The second example is of workers from the poor, drought-prone district of Mahabubnagar in Andhra Pradesh. Andhra Pradesh (AP) is the poorest southern State in India and ranks lowest among south Indian states on human development indicators, as well as growth and per capita income. Construction work in urban areas has been an important way of coping with drought in Mahabubnagar, which has huge tracts of unirrigated land with only a single cropping season (Deb *et al.*, 2002). A majority of construction workers from this district belong to the Scheduled Castes.

The situation here is similar to that found in southern MP: workers are recruited by contractors and agents (*mestries*), who are hired by construction companies to find labourers. The companies pay the agent and not the workers, and underpayment of workers is common. In early 2008, a group of workers interviewed by Deshingkar during the course of research for the DFID-funded Andhra Pradesh Rural Livelihoods Project, showed that they were receiving the equivalent of Rs 1,200 per month in cash and food, even though the *mestris* were being given Rs 150 per worker per day (Rs 4,500 per month). *Mestris* recruit workers against an advance of Rs 20,000–25,000, and this lump sum is used to repay older debts. Underpayment traps the workers in a continuous cycle of debt. There is a strong power relationship between the worker and the agent: Olsen and Ramanamurthy (2000) show the variety of insidious ways in which construction workers are exploited by *mestries*, ranging from trapping them in bonded labour by paying less than subsistence level, extracting overtime and child labour, and using caste-based and patriarchal modes of

⁸ Pers.comm. Vipul Pandya of Disha in Ahmedabad; Ashok Khandelwal, legal expert on labour laws and Action Aid staff in Hyderabad.



oppression to maintain exploitative labour relations. The workers are aware of the exploitation, but do not migrate independently because they do not have the information to find work regularly and the risks are too great. And, sadly, workers believe that the *mestries* will help them during times of difficulty, because of the feudal history of the region and their faith in patron–client relationships.

A number of trade unions across the country continue to fight for the rights of construction workers and some successes can be seen. SEWA (Self-Employed Women’s Association) has succeeded in extending social security coverage to many women workers in informal occupations, and has engaged in collective bargaining with employers. But there is no political commitment at higher levels to improving the conditions of construction workers. Even those workers who are employed on large, high-profile projects, such as the Commonwealth Games construction work in Delhi, do not enjoy all the benefits that they should by law.⁹ Where welfare boards have been created, institutional constraints and a lack of political commitment have slowed implementation. The Delhi Construction Workers Welfare Board, for example, has, according to the Nirman Mazdoor Panchayat Sangham, a union of construction workers, amassed Rs 2,200 million through employer contributions from large industry and other establishments. However, the fund remains unutilised because the Labour Department does not have the capacity to register beneficiaries. Exactly who will take responsibility is not clear, and resolving the problem is not a political priority.

The issues raised by informal occupations in agriculture are altogether different, as the next section details. First, agricultural work is more difficult to monitor, because it is away from urban areas where NGOs and other organisations are concentrated, and, second, the degree of violation of labour laws can be much worse. Two examples highlight these problems: work in cottonseed farms, which violates almost all labour laws related to bonded labour, minimum wages and child labour; and work in sugarcane fields, where working conditions continue to be harsh, despite historic lawsuits and focused public attention.

3.4 Cottonseed production

India’s cottonseed production is estimated to be around 35 percent of its cotton output of over 4.5 million tons. Nearly 80 percent of the cottonseed is crushed for oil, while the rest goes for feed.¹⁰ Cottonseed production is concentrated in five states, namely Andhra Pradesh, Gujarat, Karnataka, Maharashtra and Tamilnadu. These five states account for more than 95 percent of the area under cottonseed production in the country. In 2003–04, nearly 55,000 acres were under cottonseed production in the country, out of which Gujarat accounted for 26,000 acres, Andhra Pradesh 14,000 acres and Karnataka 4,000 acres.

⁹ Interview with members of the Nirman Mazdoor Panchayat Sangham, a union of construction workers in Delhi.

¹⁰ See <http://www.commodityonline.com/commodities/oil-oilseeds/cottonseedoil.php> (accessed 23 July 2009).



Andhra Pradesh was the largest cottonseed producing state in the country until recently, but Gujarat has surpassed its production (Venkateswarlu, 2004). Cottonseed producers violate labour laws on a number of counts. The most serious violation is that they employ large numbers of children. Venkateswarlu estimates that roughly 286,000 workers were employed in cottonseed farms in Gujarat in 2003–04. Of these, around 91,000 were children in the age group of eight to 14 years. His calculations for Karnataka show that nearly 26,800 child labourers (aged seven to 14 years) were employed in cottonseed farms in 2003–04, and 88 percent of them were girls. A large number of the child migrants in cotton fields in Gujarat are poor tribals from southern Rajasthan (Katiyar, 2006), which is a chronically poor area due to prolonged drought and poor governance. Estimates of the numbers of children working in cottonseed farms vary. According to UNICEF, cotton plantations in AP employ 200,000 children below the age of 14. The vast majority are girls, as they are preferred over boys. The Environmental Justice Foundation puts the number at around 100,000.

Working conditions in cottonseed farms are completely against the law. The children are recruited by agents who pay their parents an advance – a bondage arrangement similar to the one found in the case of construction workers. The difference is that the wages are extremely low and the children never receive the money. They pay off the debt by working up to 13 hours a day (at Rs 30 or less than 25 pence a day) from July to February.¹¹ On average, ten to 12 girls work per acre and are mostly drawn from chronically poor families which are heavily in debt and pledge their child's labour to pay off the debt. Living and working conditions are basic and many children drop out of school. A UNICEF case study found that 60 percent of children working in cottonseed fields have dropped out of school and 29 percent have never attended school. As about half of them began working before the age of 11, literacy levels are very low.¹² According to Venkateswarlu, there is no pressure on the Labour Department to improve labour standards. He says that there are so many loopholes in the law relating to child labour that he and his colleagues have preferred to work through the legislation against bonded labour and the minimum wages legislation.

A number of unions and pressure groups across the country have agitated for improved wages and working conditions for agricultural labourers. While there are some successes, such as the Agricultural Alliance, which has successfully campaigned for the extension of the labour legislation applicable to plantation workers to all workers in the agricultural sector, there is still insufficient pressure from the public or commitment at the policy level to enforcing labour legislation in agriculture. However, what has made a difference in some instances is public pressure in the West, which has forced multinational seed companies to improve their record of labour standards in the value chain. We return to this issue in section 2.2

¹¹ See <http://www.ejfoundation.org/page330.html> (accessed 23 July 2009).

¹² See http://www.unicef.org/india/child_protection_1739.htm (accessed 23 July 2009).

3.5 Sugarcane cutting

Maharashtra, Gujarat and Karnataka are the leading producers of sugar in India. The Maharashtra sugar industry alone produces nearly 40 percent of India's sugar. According to official statistics issued by the Maharashtra State Sugar Cooperative Federation, there are 1.6 million sugarcane farmers growing the crop on 0.7 million hectares of land, producing 60 million tonnes of sugarcane. There are 172 sugar factories in the State, providing employment, directly or indirectly, to 15 million people.

The industry employs more than a million cane-cutters, who almost always belong to lower caste or tribal households – with little or no land – from the Marathwada region, noted for its drought proneness and extreme poverty. The cutting cycle lasts for six months, from November to April/May. Here too, poor workers are recruited against a payment of advances by a contractor. The contractor provides very basic accommodation, without proper sanitation. Access to fuel and drinking water are difficult and this increases the work burden on women. While the earnings from such work are good compared to work in the village, the working and living conditions are so poor that they have been cited as one of the most exploited labour groups in India by researchers such as Jan Breman, who famously said that even dogs are better off (Breman, 1990).

Breman has documented in detail the contractual arrangements and patron–client relationships between capitalist farmers and sugarmill owners, who usually belong to the socially upward caste of Patel, and the poor *adivasi* (tribal) labourers (Breman, 1978, 1985). As a direct result of Breman's work, a union of sugarcane labourers filed and won a case against sugarmills in the Bardoli area of southern Gujarat. The historic settlement gave sugarcane cutters' working conditions unprecedented recognition. However, they continue to work in appalling conditions even now, because the all-powerful Patels have managed to overrule any labour inspection machinery. There is no one to challenge the supremacy of the Patels, who have strong social links with politicians regionally and nationally, with the regulation system and with large business.

What is clear from all the preceding examples is that the labour inspection machinery has not functioned in the way it was meant to. The reasons for this failure include corruption, collusion between employers and labour inspectors, the inability of the law to deal with new categories of work and subcontracting and the powerlessness of workers against their employers. While the conventional system has failed, new approaches to labour inspection have emerged and these have brought more results, as the examples below show.



4 New approaches to labour inspections

Two examples of unconventional labour inspections are discussed below, to show how actors such as undercover reporters, researchers and human rights organisations have succeeded in monitoring working conditions and mobilising public opinion against offending employers.

4.1 Garment supply chains: Gap Inc.

In 2007, undercover reporters for *The Observer* found children, some as young as ten, working in a hand work production unit supplying the international clothing company Gap Inc. The company responded immediately to the article by promising to eradicate child labour from its production. Within the space of a year, Gap Inc. has introduced a system of approved vendors, with internal monitoring protocols and a Gap Code of Vendor Conduct. Although the system was developed in consultation with the Indian government, Gap has appointed its own Vendor Compliance Officers, who can perform unannounced audits of any subcontracted handwork facility.

Additionally, Gap is considering relabelling its garments, so that consumers can track them online to see where they were made. This system will mirror the successful 'Rugmark' programme that has eradicated child labour in some parts of the Indian carpet industry. Rugmark operates independently of the carpet industry and certifies that carpets bearing its label are free of illegal child labour. This is accomplished by monitoring looms and factories through surprise and random inspections by its own inspectors.

The striking feature in both the Gap and Rugmark initiatives is that they have their own inspectors and have clearly decided that the government system alone is not sufficient to ensure that labour standards are kept.

4.2 Seed supply chains: Bayer, Syngenta and Monsanto

The second example is from agriculture – cottonseed production. Until very recently, child labour was rampant, despite a ban on child labour in 1986. But after the employment of children in cotton fields in Andhra Pradesh was researched and publicised by Davuluri Venkateswarlu¹³ in India and abroad, both Monsanto and Bayer, two of the main multinationals involved, introduced strict policies against child labour and an action plan to prevent repeat violation of labour laws. In 2005 to 2006, around 20 percent of the workers on Bayer's and ten percent of the workers on Monsanto's cottonseed suppliers in Andhra

¹³ The research was funded by NGOs and labour rights organisations, such as the International Labour Rights Fund and Deutsche Welthungerhilfe.



Pradesh were children under 15. This percentage dropped to roughly 11 percent on Bayer's farms and five percent on Monsanto's farms in 2006 to 2007 (Venkateswarlu, 2007).

Bayer, Syngenta and Emergent Genetics (Monsanto) in 2005 jointly agreed to implement the following action plan for 2005 to 2006:

- Information sharing: companies to share all relevant information on production sites and lists of farmers.
- No child labour clause in contracts: in the agreements with seed organisers and farmers, companies agreed to include a separate clause clearly prohibiting the use of children below the age of 15 in production activities.
- Joint monitoring by the companies and NGOs to review the progress of implementation of the action plan. Local level joint committees would conduct field inspections and report violations to district and state committees.
- Incentives and disincentives: companies agreed to implement a scheme of incentives and disincentives for farmers. Under this scheme, several disincentives have been announced for farmers who violate the no-child labour rule. The first violation would result in the issuing of a show cause notice¹⁴ by the company. If the farmer violates the rule again, then the company will cut ten percent of the procurement price which it agreed to pay to the farmer. A third-time violation would result in the company cancelling its contract without renewal. Farmers who produced without child labour would benefit from a five percent bonus on the procurement price. If all seed farmers in a particular village eliminate child labour, the village will be rewarded by the company through financial support for educational projects.

Although the action plans have not eliminated child labour completely, they have undoubtedly had an impact. Venkateswarlu thinks that the incidence of child labour has been reduced only in those areas that are being carefully watched. The same companies are turning a blind eye to similar problems in other regions where their activities are not so closely monitored. Glocal, the consultancy company headed by Venkateswarlu, is now putting pressure on the companies to clean up their vegetable seed production chains as well. The work of Venkateswarlu and others has also led to interest in international policy research organisations and NGOs. Oxfam has recently started a project to introduce decent work in cotton supply chains, and Andhra Pradesh is one of the locations covered.

¹⁴ This is a court order that requires a party to appear before the court and explain why a certain course of action should not be taken against it. If the party cannot convince the court or fails to appear, that course of action is taken.



Both of these examples involved supply chains involving international companies: while Gap was concerned about protecting its image with its consumers in the West, the seed companies were being carefully monitored by international pressure groups. Greater challenges are posed by those occupations that are not part of global supply chains, and where there is no political incentive to act, as seen in the case of construction workers and sugarcane cutters. While unions, NGOs and activists continue to fight for worker rights, an effective monitoring and prosecution mechanism has not yet been put in place. Here too, linking up with international pressure groups, unions and researchers has helped to give the issue publicity, but this has not led to punitive action because there are no consumers. A somewhat different approach is suggested by Mosse (2007) who argues that new forms of organisation as well as awareness creation may be able to transform structures and social processes that perpetuate powerlessness and inequality. He cites the example of the migrant support programme funded by DFID which has successfully drawn policy attention to the plight of *adivasi* (tribal) seasonal migrants in Western India. Bhalla (2006) on the other hand analyses the Indian National Sample Survey data to show that infrastructure levels are strongly associated with poverty among casual workers and the composition of the casual workforce. Higher levels of infrastructure development are associated with a move out of agriculture into non-farm work as well as a fall in poverty. She concludes that improving rural infrastructure is the key to addressing chronic poverty among casual workers. Although she does not state explicitly that other approaches to improving wages and reducing poverty among casual workers such as labour regulation and advocacy are less important, her work suggests that infrastructure improvements should be the first step in addressing poverty among casual workers. However both these models, i.e. new forms of organisation and infrastructure development, would perhaps need to be complemented by other efforts to improve the visibility of labourers' problems, give them a greater or louder political voice and promote transparency and accountability in governing institutions. Partnerships between the media, labour inspectorates and civil society organisations certainly offer this promise.



5 Conclusions

The occupations and contractual arrangements reviewed in this paper show that, on the whole, the system of labour inspection under the Indian Labour Department has been ineffective, due to a combination of corruption, loopholes in the law, resource shortages and low political priority accorded to improving labour standards. Some occupations cannot be policed properly because there are no laws to cover them. Even when labour laws are formulated, the effort seems to be half-hearted, because of the many ways in which laws can be circumvented.

The gap in the formal inspection system has been filled to some extent by civil society organisations and the media, who have taken on watchdog functions to put pressure on firms. Such tactics have been more successful in the case of occupations that are part of international value chains, or where international companies are closely watched by international human rights organisations and NGOs. Such a multi-party approach is clearly more effective and should be replicated where possible in other industries. Occupations that are not linked to global supply chains or companies continue to suffer from poor visibility and poor labour standards, despite efforts by unions and NGOs.

However, this is not to say that labour inspectorates cannot play a positive role; they embody institutional capacity and access to information on labour markets that would be critical to any effort to improve labour standards. Their limited resources, however, mean that they can be effective only if they enter into alliances with a broader group of organisations. These may include organisations working for minority rights, women's rights, child rights, trade unions, the media and social activists. Labour inspectorates and other organisations could complement each other because the former have the authority to act upon violations of the law whereas other actors may be more aware of violations of the law and the difficulties faced by employers with compliance.

Ultimately, public awareness and political commitment at the national level are essential to improving labour standards, and more inspections involving a range of actors need to happen. This will require the mobilisation of resources to allow civil society organisations and researchers to conduct more investigative work on labour standards in different informal occupations. Where and how such additional funds could be mobilised needs further study.

References

- Ahsan, A., C. Pages and T. Roy (2008). 'Legislation, enforcement and adjudication in Indian labor markets; origins, consequences and the way forward'. In Mazumdar, D. and Sarkar, S., *Globalization, Labor Markets and Inequality in India*. New York: Routledge.
- Asian Development Bank (2005). *Labour Markets in Asia: Promoting Full, Productive, and Decent Employment*. Manila: ADB.
- Basu, K. (2005). 'Labour laws and labour welfare in the context of the Indian experience'. Center for Analytic Economics (CAE) Working Paper 05-17, December.
- Besley, T. and Burgess, R. (2004). 'Can labour regulation hinder economic performance? Evidence from India'. *The Quarterly Journal of Economics* 119 (1), 91–134.
- Bhalla, S. (2006). 'Rural casual labourers, wages and poverty'. In Asha Kapur Mehta and Andrew Shepherd (eds.) *Chronic Poverty and Development in India*. New Delhi: Sage Publications.
- Breman, J. (1990). "Even dogs are better off": The ongoing battle between capital and labour in the cane-fields of Gujarat'. *Journal of Peasant Studies* 17 (4), July, 546–608.
- Breman, J. (1978). 'Seasonal migration and co-operative capitalism: Crushing of cane and of labour by sugar factories of Bardoli'. *Economic and Political Weekly* 13 (31–33), 1317–60.
- Breman, J. (1985). *Of Peasants, Migrants and Paupers: Rural Labour Circulation and Capitalist Production in West India*. Oxford/Delhi: Clarendon Press/Oxford University Press.
- Burki, S.J. and Perry, G.E. (1997). *The Long March: A Reform Agenda for Latin America and the Caribbean in the Next Decade*. Washington, DC: The World Bank.
- Chandra, N. (2008). 'Labour rights and the working poor'. Mimeo. Available at http://www.undp.org/LegalEmpowerment/reports/National%20Consultation%20Reports/Country%20Files/12_India/12_5_Labor_Rights.pdf
- Chen, M. (2007). 'Skills, employability and social inclusion: Women in the construction industry'. [Women in Informal Employment Globalizing and Organizing](#) (WIEGO) Network. Cambridge, MA: Harvard University.
- Chen, M. (2005). 'Rethinking the informal economy: Linkages with the formal economy and the formal regulatory environment'. DESA Working Paper 46. New York: United Nations Department of Economic and Social Affairs.
- Deb, U. K., Nageswara Rao, G.D., Mohan Rao, Y. and Slater, R. (2002). 'Diversification and livelihood options: A study of two villages in Andhra Pradesh, India 1975–2001'. Working Paper 178. London: Overseas Development Institute.
- DeHaan, A. and Maxwell, S. (eds.) (1998). 'Poverty and social exclusion in North and South'. *IDS Bulletin* 29 (1). Brighton, UK: Institute of Development Studies.
- Doane, D. L. (2007). 'Living in the background: Home-based women workers and poverty persistence'. Chronic Poverty Research Centre Working Paper 97. Manchester, UK: Chronic Poverty Research Centre (CPRC).
- Fallon, P. R. and Lucas, R. (1991). 'The impact of changes in job security regulations in India and Zimbabwe'. *The World Bank Economic Review* 5(3), 395–413.

- Freeman, R. B. (1993). 'Labour market institutions and policies: Help or hindrance to economic development?' World Bank Annual Conference on Development Economics 1992. Washington, DC: The World Bank.
- Forteza, A. and Rama, M. (2002). *Labour Market Rigidity and the Success of Economic Reforms across more than One Hundred Countries*. Mimeo. Washington DC: The World Bank.
- Ghosh, J. (2001). 'Globalisation, Export- Oriented Employment for Women and Social Policy: A Case Study of India.' Paper prepared for UNRISD Project on Globalization, Export-Oriented Employment for Women and Social Policy, July 2001.
- Hickey, S. and du Toit, A. (2007). 'Adverse incorporation, social exclusion and chronic poverty'. Chronic Poverty Research Centre Working Paper 81. Manchester, UK: Chronic Poverty Research Centre (CPRC).
- ILO (2006). *Labour Inspections*. Geneva: International Labour Office, International Labour Organization.
- Jha, P. and Golder, S. (2008). 'Labour market regulation and economic performance: A critical review of arguments and some plausible lessons for India'. Economic and Labour Market Papers 2008/1. Geneva: International Labour Office.
- Katiyar, S. (2006). *Wages of Adolescence: Annual Exodus of Tribal Adolescents from South Rajasthan to Bt Cotton Seed Plots of North Gujarat*. Udaipur: Sudrak.
- Khan, A. (2005). *Commentary on the International Labour Organization and the Indian Response*. Hyderabad: Asia Law House.
- Krishnamoorthy, S. (2006). *Garment Industry and Labour Rights in India: The Post MFA Context*. New Delhi: Centre for Education and Communication.
- Kundu, Amit (2008). 'Conditions Of Work And Rights Of The Female Domestic Workers Of Kolkata' Department Of Economics, Jadavpur University, Kolkata. Available at http://mpra.ub.uni-muenchen.de/7636/1/MPRA_paper_7636.pdf
- Mazumdar, D. and Sarkar, S. (2008). *Globalization, Labour Markets and Inequality in India*. Taylor and Francis Ltd.
- Mezzadri, A. (2008). 'How globalised production exploits informal-sector workers: Investigating the Indian garment sector'. *Development Viewpoint* 12. London: Department of Development Studies, School of Oriental and African Studies (SOAS).
- Mody, S. (2004). *Construction Workers' Movement in Tamil Nadu*. New Delhi: Centre for Education and Communication.
- Mosse, D. (1997) Power and the durability of poverty: a critical exploration of the links between culture, marginality and chronic poverty. Chronic Poverty Research Centre, Working Paper 107. Manchester, UK: Chronic Poverty Research Centre.
- Mosse, D., Gupta, S., Mehta, M., Shah, V. and Rees, J. (1997). 'Seasonal labour migration in Tribal (Bhil) Western India'. KRIBP Working Paper. Swansea, UK: Centre for Development Studies, University of Wales.
- Mosse, D., Gupta, S., Mehta, M., Shah, V. and Rees, J. (2002). 'Brokered livelihoods: Debt, labour migration and development in tribal Western India'. *Journal of Development Studies* 38(5), June, 59–87.



- Neetha, N. (2004). 'Making of female breadwinners: Migration and social networking of women domestics in Delhi'. *Economic and Political Weekly*, 24 April, 1681–88.
- Olsen, W. and Ramanamurthy, R. V. (2000). 'Contract labour and bondage in Andhra Pradesh (India)'. *Journal of Social and Political Thought* 1(2), June.
- Rao, N. M. (2007). *Impact of ILO Standards on Indian Labour Law*. Hyderabad: Asia Labour House.
- Rastogi, A. (2002). *Inspector Raj for Garment Export Businesses*. New Delhi: Centre for Civil Society.
- RoyChowdhury, S. (2005). 'Labour activism and women in the unorganised sector garment export industry in Bangalore'. *Economic and Political Weekly*, 28 May, 2250–55.
- Sarde, S.R. (2008). 'Migration in India, trade union perspective in the context of neo-liberal globalisation'. Mimeo. New Delhi: International Metalworkers Federation.
- SCF (2005). *Child Domestic Work: A Violation of Human Rights*. New Delhi: Save the Children Fund.
- Shah A. (2007). 'Poverty in remote rural areas in India: Pattern, processes of reproduction, and policy imperatives'. Paper prepared for 'Understanding and addressing spatial poverty traps: an international workshop', 29 March, Spier Estate, Stellenbosch, South Africa.
- Sharma, A. (2006). 'Flexibility, employment and labour market reforms in India'. *Economic and Political Weekly* 27 May, 2078–85.
- Sindhu, A.R. (2006). 'Exploitation unlimited! Homebased workers of India'. *Labour File* March–April, 4(2), 29–30.
- Sinha, S. (2006). 'Government policies for homebased workers'. *Labour File* March–April, 4(2), 19–22.
- Standing, G. and Tokman, V. (eds.) (1991). *Towards Social Adjustment*. Geneva: International Labour Organisation (ILO).
- Unni, J. (2002) Size, Contribution and Characteristics of Informal Employment in India Country Case Study, commissioned by the International Labour Organization, Geneva
- Unni, J. and N. Bali (2001). *Subcontracted Women Workers in the Garment Industry in India*. Ahmedabad: Gujarat Institute of Development Research.
- Venkateswarlu D. (2004). 'Child labour in hybrid cottonseed production in Gujarat and Karnataka'. Available at: http://www.indianet.nl/Guj-Karn_cottonseed.doc (accessed 28 July 2009).
- Venkateswarlu, D. (2007). *Seeds of Change: Impact of Interventions by Bayer and Monsanto on the Elimination of Child Labour on Farms Producing Hybrid Cottonseed in India*. Hyderabad: OECD Watch, Deutsche Welthungerhilfe, India Committee of The Netherlands, Eine Welt Netz NRW, International Labor Rights Fund.



Appendix

Appendix 1: Indian Labour Legislation

Laws related to Industrial Relations	
1	The Trade Unions Act, 1926 The Trade Unions (Amendments) Act, 2001
2	The Industrial Employment (Standing Orders) Act, 1946 The Industrial Employment (Standing Orders) Rules, 1946
3	- The Industrial Disputes Act, 1947
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Laws related to Wages	
1	The Payment of Wages Act, 1936 The Payment of Wages Rules, 1937 The Payment of Wages (AMENDMENT) Act, 2005
2	The Minimum Wages Act, 1948 The Minimum Wages (Central) Rules, 1950
3	The Working Journalist (Fixation of Rates of Wages) Act, 1958 Working Journalist (Conditions of service) and Miscellaneous Provisions Rules, 1957
4	The Payment of Bonus Act, 1965 The Payment of Bonus Rules, 1975
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Laws related to Working Hours, Conditions of Services and Employment	
1	The Factories Act, 1948
2	The Dock Workers (Regulation of Employment) Act, 1948
3	The Plantation Labour Act, 1951
4	The Mines Act, 1952
5	The Working Journalists and other Newspaper Employees' (Conditions of Service and Misc. Provisions) Act, 1955 The Working Journalists and other Newspaper Employees' (Conditions of Service and Misc. Provisions) Rules, 1957
6	The Merchant Shipping Act, 1958
7	The Motor Transport Workers Act, 1961
8	The Beedi & Cigar Workers (Conditions of Employment) Act, 1966
9	The Contract Labour (Regulation & Abolition) Act, 1970 The Contract Labour Regulation Rules
10	The Sales Promotion Employees (Conditions of Service) Act, 1976 The Sales Promotion Employees (Conditions of Service) Rules, 1976
11	The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979
12	The Shops and Establishments Act
13	The Cinema Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981 The Cinema Workers and Cinema Theatre Workers (Regulation of Employment) Rules, 1984 The Cine Workers' Welfare Fund Act, 1981.
14	The Dock Workers (Safety, Health & Welfare) Act, 1986
15	The Building & Other Construction Workers (Regulation of Employment & Conditions of Service) Act, 1996
16	The Dock Workers (Regulation of Employment) (inapplicability to Major Ports) Act, 1997



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Laws related to Labour Welfare

- 1 [The Mica Mines Labour Welfare Fund Act, 1946](#)
- 2 [The Limestone & Dolomite Mines Labour Welfare Fund Act, 1972](#)
- 3 [The Beedi Workers Welfare Fund Act, 1976](#)
- 4 [The Beedi Workers Welfare Cess Act, 1976; The Beedi Worker's Welfare Cess Act Rules, 1977](#)
- 5 [The Iron Ore Mines, Manganese Ore Mines & Chrome Ore Mines Labour Welfare Fund Act, 1976](#)
- 6 [The Iron Ore Mines, Manganese Ore Mines & Chrome Ore Mines Labour Welfare Cess Act, 1976](#)
- 7 [The Cine Workers Welfare Fund Act, 1981](#)
- 8 [The Cine Workers Welfare Cess Act, 1981](#)
- 9 [The Employment of Manual Scavengers and Construction of Dry latrines Prohibition Act, 1993](#)

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Laws related to Social Security

- 1 [The Workmen's Compensation Act, 1923](#)
[The Workmen's Compensation \(Amendments\) Act, 2000](#)
- 2 [The Employees' State Insurance Act, 1948](#)
- 3 [The Employees' Provident Fund & Miscellaneous Provisions Act, 1952](#)
[The Employees' Provident Fund & Miscellaneous Provisions \(Amendment\) Act, 1996](#)
- 4 [The Payment of Gratuity Act, 1972](#)
[The Payment of Gratuity Rules](#)
- 5 [The Unorganised Workers' Social Security Act 2008](#)
[The Unorganised Workers' Social Security Rules 2008](#)

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Laws related to Deprived and Disadvantaged Sections of the Society

- 1 [The Bonded Labour System \(Abolition\) Act, 1976](#)
- 2 [The Child Labour \(Prohibition & Regulation\) Act, 1986](#)
- 3 [The Children \(Pledging of Labour\) Act, 1933](#)

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Laws related to Social Security

- 1 [The Workmen's Compensation Act, 1923](#)
[The Workmen's Compensation \(Amendments\) Act, 2000](#)
- 2 [The Employees' State Insurance Act, 1948](#)
- 3 [The Employees' Provident Fund & Miscellaneous Provisions Act, 1952](#)
[The Employees' Provident Fund & Miscellaneous Provisions \(Amendment\) Act, 1996](#)
- 4 [The Payment of Gratuity Act, 1972](#)
[The Payment of Gratuity Rules](#)
- 5 [The Unorganised Workers' Social Security Act 2008 ; The Unorganised Workers' Social Security Rules 2008](#)



Appendix 2: List of persons interviewed

- (1) Dr Rehman, V.V. Giri Institute of Labour Research, New Delhi
- (2) Mr J. John, Director, Centre for Education and Communication, New Delhi
- (3) Ms Sindhu Menon, Labourfile, New Delhi
- (4) Mr Sudhir Kumar, President, Unorganised Sector Workers Union under CITU, New Delhi
- (5) Mr Subhash Bhatnagar, Nirman Mazdoor Panchayat Sangham
- (6) Dr Davuluri Venkateswarlu, Coordinator, Global Consultancy, Hyderabad
- (7) Dr Rukmini Rao, Coordinator, Gramya
- (8) Mr Manjunath Ganga, Deputy Labour Commissioner, Karnataka



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