Conclusion

The eighteenth Commonwealth Games are scheduled to be held in Delhi between 3rd October and 14th October, 2010. About 85 Commonwealth nations will participate in this event. An estimated sum of Rs. 5,200 crore was sanctioned by the Government of India to the Delhi government for construction of infrastructural and sports facilities. The construction projects have been assigned to different government authorities; the Central Public Works Department (CPWD), the Delhi Development Authority (DDA), the New Delhi Municipal Corporation (NDMC), and the Municipal Corporation of Delhi (MCD). These bodies, in turn, have contracted multinational real estate and construction companies for the execution of these projects. Some other major projects directly or indirectly linked to the Games are; the construction of the Metro line, a four-lane underground road, 25 new flyovers, bridges and under bridges, a new eight-lane expressway as well as the upgradation of several hotels. Therefore, in preparation for the Commonwealth Games the city has been flooded by construction activities.

In most of the sites at the Commonwealth Village, the Airport, and DMRC (Delhi Metro Rail Construction), the workers are not paid minimum wages, overtime, sometimes the wages are given at irregular intervals, given late or not given at all. Women are given lower wages compared to men, engaging in the same nature of work. Only 1 per cent workers at the site are aware of the Building and Other Construction Workers (Regulation of Employment and Condition of Service) Act, 1996 and its provisions. The safety guidelines are non-existent in all the sites and no compensation is given for accidents as required by the law. In addition to this, there are inadequate and close to no provisions for first-aid boxes, ambulances, sanitation (toilets), drinking water, canteen, and crèches on the sites. Due to mechanization and specific rules by the Delhi government, women are hardly employed at some of the Commonwealth Games sites. They are not recognized as skilled workers and in some sites, where they work as unskilled workers, they are not given maternity benefits. The living conditions of the workers are highly unhygienic at the site and outside (slums of Delhi). In addition, they face problems arising from lack of accessing water/toilet facilities, which make their living condition even worse.²

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¹ People's Union for Democratic Rights, Fettered lives: Contract labour in Jawaharlal Nehru University, New Delhi, June 2007
According to the Human Rights Law Network (an NGO in Delhi), approximately 70 workers have been killed in accidents at the sites since the work started for the Commonwealth Games, whereas in the report submitted to the Courts, the official estimate was only 48 workers. A report submitted by the committee, appointed by the Delhi High Court, shows that the unskilled workers received Rs 114 as daily wages, which is not in accordance to the minimum wages in this category of work (Rs 151). In addition, the workers never get a weekly off with wages and in most cases; they have no proof of employment (as no identity cards and wage slips are issued to them). Therefore, there is gross violation of numerous labour laws at the sites in the Commonwealth Games Village: Payment of Wages Act, 1936; Minimum Wages Act, 1948; Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996; Interstate Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979; and Contract Labour (Abolition and Regulation) Act, 1970.  

It is ironic that on one hand, newspaper articles are filled with BJP’s stand against serving beef to the guests for the Games, and Congress starting a ‘good manners’ campaign, imploring the citizens of Delhi for ‘proper conduct’ during the Games. On the other hand, there is total silence on the part of the political parties on labour rights violation connected with the Commonwealth Games. 

Non-compliance with the labour laws and infringement of labour rights are only a part of the problems construction workers face in the era of globalisation and informalisation of work. With the advent of globalisation, state subsidies were reduced on health, education, and social sector; many small-scale enterprises and factories were shut down and state reduced its welfare activities. Due to the failure of the planning process and distributive justice, in India these structural changes did not reduce the gap between the rich and the poor. These changes drastically affected the labour market and soon the affect was visible in terms of the emerging array of insecurities, which the workers faced. The forces of globalisation accentuated the defining principles of informalisation

(CWG-CWC), Indian Social Institute, New Delhi, October 13, 2009. The CWG-CWC is a coalition of individuals and organizations to raise the issue of working/living conditions and safety /social security of construction workers in the context of the Delhi Commonwealth Games 2010.

Ibid, 2009


Refer to Chapter One. Here globalisation is addressed only with respect to the Structural Adjustment Programmes and only some specific policy changes. The period referred to is 1991.

The labour market insecurity, employment insecurity, work insecurity, job insecurity, skill reproduction insecurity, income insecurity, and representation insecurity characterises work in the era of informalisation.
of work. The informalised work is characterised by: non-regular, part-time, casual, piece-rate, contractual, higher rates of unemployment, slower rates of employment growth, higher ‘labour slack’, reduced employment protection, increase in frequency of changing jobs, reduction in skill upgradation methods, flexible wages, deunionisation, and the changing character of collective bargaining.

Thus, overall several labour market trends were noted: the numerical decline of the organised workforce, informalisation of the formal sector, the expansion of the informal sector, informalisation of work (inadequacy of social security nets and weakening trade unions) and reduction in the role of the state (especially the welfare state).  

With globalisation and growth in infrastructural development, there was a boom in the construction sector. However, the beneficiaries are mostly the principal employers and contractors at various levels. This construction boom has not marked any difference in the living and working conditions of the millions of construction workers. Within this category of workers, women are doubly exploited. With mechanisation in the 1990s, the share of women’s work participation in urban construction has drastically reduced. Either skilled men or machines now replace women’s work. Added to this are the impacts of informalisation of work and globalisation, which defines work as casual, non-permanent, and reduces the workdays due to non-availability of work.

In the context of globalisation, informalisation, and casualisation of work, women workers face varied forms of gender-based discrimination. The structural changes due to informalisation of work especially within the informal sector have drastically affected the nature of work for women. These structural changes along with changing gender relations govern women’s work and the work women engage in. Patriarchy plays an important role to ascertain gender roles and sexual/gender division of labour. The category of women workers has to be studied within the larger framework of gender relations without essentialising the category of either women or women workers. The multiple layers of exploitation within the household, the society and the labour market is important to

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contextualise their situations of deprivation. The discrimination at the societal level within the household is reflected in the gender-based discrimination in the work place. To understand the extent of this discrimination, it is important to qualify the nature of work women engage in within and outside the premises of the household. In order to have a critical understanding of the category of women workers, it is important to theorise their position as that of being triply exploited i.e., as women, as women workers and as women workers in the informal sector. In addition, we need to consider several variables while analysing the concept of women and work: basic conditions of life and survival, basic consumption needs, basic capabilities, nature of economic participation, extent of social inclusion and freedom.  

In the informal sector, due to trends of contractualisation, casualisation, and flexibilisation, it is a big challenge to enumerate women’s work. In addition, systematic biases in employment, with respect to factors such as caste, gender, education, and skill are likely to be reinforced to redefine work for women. In addition, to wage labour most of the unpaid work that women engage in, usually within the household, is seldom accepted as ‘work’. Some women work for more than 15 hours in a day (if we include unpaid domestic work). Patriarchal notions, regional/ cultural norms sometimes define ‘women’s work’ and the work that women engage in. Within this paradigm, there is an urgent need to articulate work for women especially in the construction sector where work is highly informalised. Lack of equal wages, lack of unionisation, recognition of work, recognition of unpaid work, lack of maternity benefits and crèche facilities, sexual harassment, domestic violence, lack of access to credit and productive assets are some of the issues that women construction workers face.

Women’s work in the construction industry was always perceived as marginal, low skilled and of lesser value therefore, easy to dispose off. Women unskilled workers receive lower wages than their male counterparts engaged in similar kind of work. The contractors and co-workers due to gender division of labour and social condition/stereotyping of jobs do not acknowledge women as skilled workers. Given women are mainly employed as unskilled workers with no enabling conditions factored in for skill enhancement they therefore, are the most vulnerable category of workers with no employment protection and social security provisions in this sector.

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9 Field work notes
The numbers of skilled workmen in the construction sector has dropped substantially from 15.34 per cent in 1995 to 10.57 per cent in 2005, whereas relative proportions of unskilled workers has increased from 73.08 per cent in 1995 to 82.45 per cent in 2005 therefore, the demand for skilled workers in the this sector is evident.\(^\text{10}\) More than half of the 31 million construction workers in India are women workers who work as unskilled labour therefore; their potential is not used to the maximum.\(^\text{11}\) Many argue that the male dominated construction sector does not encourage women to work as skilled labour.\(^\text{12}\) A comparative research study in India, Mexico, Ghana, and Jamaica on women construction workers show that the sharpest differentiation of tasks on gender lines occurs in India. Women workers in India are not considered eligible for skilled work like bricklaying and basic masonry, even when they master such skills with some exceptions.\(^\text{13}\)

In Tamil Nadu, for instance, women masons are being recognised as skilled workers and have a good acceptance level among their own labour contractors. Some argue that this is due to the long struggle of construction workers and greater awareness among people related to the building industry as well as certain legislatures (the Tamil Nadu Manual Workers Act) passed by the state. In addition, women workers as a part of the Socio-Economic Unit Foundation (SEUF) have made a mark as masons in certain districts of Kerala (Thrissur and Allapuzha).\(^\text{14}\) SEUF provides training to women workers in building components and in using these in construction. They form all women teams that undertake construction of low-cost housing and sanitation units. The organisation has also collaborated with the People’s Planning Programme, a local government’s initiative, so that these women get work opportunities on a sustained basis.

Other than, the instances mentioned above, women in most construction sites work as head loaders and carry bricks, cement, sand, and water over long distances/heights. Unskilled male workers also work as head loaders but sometimes they have the opportunity to assist the head mason in the making mortar, laying bricks and plastering


\(^{11}\) Ibid, 2008


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thus acquiring skills. Women, on the other hand, are perceived to be incompetent to pick up these skills on the job. For women to be able to work as skilled workers or acquire skills like their male counterparts such social constructs have to be questioned.

Apart from marked gender division of labour, the construction sector is also defined by informality: multiple layers of sub-contractors, informal recruitment pattern, neo-bondage ties, and the irregular basis of wage payment. Since there is poor trade union participation and weak enforcement of labour laws, this sector evades all forms of regulation. The nature of work designated to women is highly informal with no scope of skill upgradation and constant threat of retrenchment.

Often, the construction workers are denied minimum wages, and stay under conditions of severe poverty and deprivation. They are mostly migrants, migrating due to reasons pertaining to poverty, unemployment, underemployment, promise of work and subsistence wage. Migrant workers work in the construction sector mainly due to the ease of entry into the sector (since there is no prerequisite skill level for migrants to start work). At times, odd preference is given to migrants in comparison to local workers in construction as they can be employed as flexible labour. Also sometimes, to get out of the circle of poverty the migrants enter neo-bondage relationships with jobbers to enter this sector. Given the nature of informalisation of work, the absence of union participation and ineffective labour law implementation in this sector, these migrant workers face multilayered exploitation with no protection by social security provisions.

Social security measures should be designed to meet basic needs (such as adequate nutrition, shelter, health care and clean water supply), as well as contingent needs (such as illness, unemployment, maternity, disability, death, unemployment and old age) of workers. The concept of social security should not only be aimed to avert deprivation, but also challenge the power imbalances in a society that encourage, create, and sustain longer-term vulnerabilities for workers. Thus, a transformative approach to social security is needed, in addition to, its promotional, preventive, and protective components, in the Indian scenario.15

The government, non-government and international agencies while formulating the social protection need of its citizens, should address the needs of the most vulnerable communities and guarantee them relief from deprivation. Secondly, the government should provide contingency-based assistance in terms of providing safety nets. Statutory social insurance should be provided to the workers in the informal sector against shocks, in order to prevent threats to livelihood insecurity. There should be expansion of economic opportunities and creation of quality jobs and enhancement of employability. Finally, a transformative objective of social protection would seek to address causes as well as symptoms (i.e. address the problem of poverty by studying the structural inequalities that is responsible for its reproduction with time), which affect workers. 16

Workers in the informal sector and especially in the construction sector are severely affected by ineffective implementation of labour legislations regarding minimum conditions of work, payment of wages, security of employment, facilities at work, safety, and health provisions, and social security at work.

There is an immediate need for implementing the recommendations of the ‘Report on Conditions of Work and Promotion of Livelihoods in the Unorganised Sector’, on minimum conditions of work. 17 In addition, implementation of its recommendations on some promotional policies, such as, creation of a ‘social floor’, (consisting of providing a national minimum social security, enforcing a National Minimum Wage), skill formation, strengthening the NREGS (National Rural Employment Guarantee Scheme), agricultural regeneration, and development of micro enterprises, should be undertaken. This would guarantee some minimum level of social security and minimum wages for the unorganised sector workers. 19

The informal sector, due to the nature of work, is hardly organised. There are two important models for providing social security: the state-led model and the movement-led model. 20 An instance of the first model is the provision of social security provided in the State of Kerala through Welfare Funds. The second model is exemplified by the work undertaken by organisations like SEWA for women workers in the informal sector.

17 For further details, refer to Chapter one
18 For further details, refers to Chapter one
20 Jeemol Unni, part of lectures at Institute of Social Studies, Netherlands, Hague for the Post Graduate Diploma Course on Universalising Social Security Among the Poor, ISS, 2005
The emphasis on education is one important component of the Kerala model. Education can act as a medium of awareness building in order to implement affective bargaining with the state. However, it is often critiqued, as the medium of education cannot be a transformative tool until and unless there is a drastic transformation to sensitise mindsets of policy-makers and society, which has not been the case in Kerala. The overarching patriarchal structures play an important role in the conceptualisation of women’s work. The gender-based discriminations starting from the nutritional levels, to education, to the kind of work women actually do, need to be questioned.

The SEWA model has been successful in organising women workers in the informal sector. It has also been instrumental in providing effective social security for millions of its members. The SEWA model has its linkages with the government at the policy level and international agencies. It has been an effective tool in policy interventions in the informal sector. Although, over the years, it has devised ways for survival, sustenance, employment security, skill upgradation for its members, but it cannot substitute for the state obligation towards social security. The government is the only institution that can replicate the nature and scale of work that SEWA engages in amongst women informal sector workers on a larger scale. The understanding and articulation or the demand for social security has come from below in the movement-led approach, on the other hand, the state-led approach emphasises development from above. The two forces should work hand-in-hand in order to provide effective social security for workers in the informal sector.

In the construction sector, the dispersed nature of work, lack of union participation, lack of legal status, lack of permanence of the work, and lack of autonomy often results in low awareness levels and ineffective implementation of labour laws in the informal sector. For migrant workers, in the construction sector, issues of gender equality in pay and equal rights at the work place, income security, employment security, decent conditions of work, guarantee of right to work, and right to social security are some important aspects of work. Although, the issues stated is not exhaustive, for this research, some recommendations regarding the Equal Remuneration Act, 1946; the Minimum Wages Act, 1948; The Buildings and Other Construction Workers Act, 1996; the National Rural Employment Guarantee Act, 2005; and the Unorganised Sector Social Security Act, 2008 is highlighted.

21 This is not to argue that there are no other reasons for ineffective implementation of labour laws.
In India, due to inherent division of labour between men and women, often work assigned to both sexes is different. Thus, this condition helps the employers to evade the provisions under the Equal Remuneration Act, 1976, which prohibits gender discrimination based on wage payment for ‘similar nature of work’. As per the ILO’s Equal Remuneration Convention, 1951; the European Union Law; the Article 141 of the European Commission; and in the case of France, the Equal Remuneration Act, 1976 in India, should be applicable to ‘work of equal value’ rather than ‘similar nature of work’.

The National Minimum Wage should be fixed in accordance to the recommendations of the 15th session of the Indian Labour Conference (1957), The National Commission on Rural Labour (1991), The Second National Commission on Labour (2002), and the Report of the Working Group of the Central Advisory Board (2003). The minimum wage, rather than mere subsistence wage, should also enable the worker to provide for himself/ herself and his family not merely the bare essentials of food, clothing and shelter but also provide for education of children, protection against illnesses, requirements of social security needs and insurance against contingencies (like old age etc).

Lack of adequate number of inspectors for checking the application of minimum wages, especially in unorganised sector, has often been argued to be responsible for poor implementation of the Minimum Wages Act, 1948, therefore, there should be provisions to increase their numbers and efficiency levels.22

Keeping the non-applicability of labour laws in practise, the government should ensure that the contract migrant workers are protected with the various provisions of laws: minimum wages, timely payment of wages, safety and welfare provisions at the worksite, and special provisions for women workers. The recommendations of the Second National Commission on Labour (2002), and the National Commission for Enterprises in the Unorganised Sector, to create an all India service for labour administration, in order to provide professional experts in the labour departments, autonomous bodies, and labour adjudicators to come together, should be implemented. In the case of faster adjudication process, the institution of Lok Adalats must be encouraged to enable faster disposal of cases along with the formulation of a ‘National Labour Code’.23

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23 The labour code, in the form of a basic law, is grounded in substantive labour rights or labour standards such as minimum wages, maximum hours of work, minimum standards of safety and health at workplace.
Although, the National Rural Employment Guarantee Act, 2005 is applicable in the rural areas, for the purpose of this research, it is important to grapple with some of its provisions, as most of the construction workers are migrants from rural areas where this Act is applicable. Certain changes need to be brought about in the NREGA to make it more gender sensitive; there should be a move from the 100 days of entitlement of the household to 100 days of entitlement of the individual. In addition, there should be separate, instead of a joint bank account for women. The local community to ensure the amount of funds released and actually spent in the process of implementation should use the Right to Information Act.  

There should be initiatives to include some categories of women workers (elderly, migrant, physically challenged, member of a female-headed household) who are often excluded due to documentary evidence and eligibility criteria.  

The simplification of the procedures for application and hurdles created in the process (unnecessary paper work and rounds of the bloc office) has to be eliminated. In addition, there should be a check on the rise of a system of informal intermediaries, private contractors, who act as intermediaries, and extract a share of the wages from workers. 

Along with this, there are many other recommendations by the National Commission for Enterprises in the Unorganised Sector, in its Report on ‘The Challenge of Employment in India: An Informal Economy Perspective’ (2009), which should be implemented. Especially the recommendation on issuance of wage slips to be made mandatory along with the transparency norms applicable to wage payments in cash (payment in public, reading aloud of muster roll, updating of job cards, etc.) should be applicable. 

The Unorganised Workers’ Social Security Act should include a minimum floor level social security for all workers (rather than the categorization of workers in accordance with the poverty line). The issues around minimum wages (non-payment of wages, delays in payment, unequal remuneration etc) and the national minimum wage should be addressed by the Act. Since the provision for women workers (e.g. equal remuneration, decent work conditions, protection from sexual harassment) are absent in

The National Commission on Enterprises in the Unorganised Sector formulates it. For further Details, refer to Chapter Three.


26 Refer to Chapter Three for further details.

the present Act, amendments should be made in accordance to the recommendations made by the Ministry of Women and Child.  

The implementation process of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, should involve trade unions, organisations working with workers in the registration process of the workers to the Welfare Board. The disbursement of the amount collected as cess should start from immediate affect with the implementation of other provisions as per the Act (currently Delhi and Ahmedabad have started with the implementation of scholarships granted for children's education). The government should make efforts for workers to renew their registrations and approach more workers through awareness drives for the registration process. There is added emphasis on the social security benefits through the Welfare Boards by workers, organisations and the government. There should be equal emphasis given to protect the conditions of work, payment of wages, safety, and security of workers and especially for women construction workers in accordance with the law.

The provisions of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996; the Unorganised Sector Workers Social Security Act, 2008; the National Rural Employment Guarantee Act, 2005; the Minimum Wages Act, 1948; along with, the Equal Remuneration Act, 1976; have to reach the workers, to address some of the issues concerning, social security needs of migrant construction workers.

Along with this, legal literacy, law reform and litigation, resources have to be constantly allocated in the making of law, its dissemination, creation of supportive structures (mobilization through public opinion), favoured interpretation systems (courts and tribunals), adequate implementation/enforcement systems, and continuing social audits of the operation of the law to make it a more dynamic institution. There should be attempts at bridging the gap between the formal equality rights and substantive equality including initiatives to improve the enforcement and the accessibility of the legal system. Law as an institution should not preserve the status quo by reinforcing inequalities rather

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28 Report of the Working Group on Empowerment of Women for the XI Plan, Ministry of Women and Child Development, Government of India made the following recommendations, to the Unorganized Sector Workers bill, which has now become an Act. Tripartite boards set up under the proposed law should have equal representation of women, the social security fund should be set up to provide benefits such as maternity entitlements and crèches, maternity entitlements should include three months paid leave plus medical expenses or ILO stipulation of 100 days. Include special provision for the prevention of sexual harassment at the workplace. Implement schemes so that women have more access to financial resources, marketing and transport facilities, women should have access to production resources and to the local markets for the sale of the goods. Registration procedures should be made simple for women.
it should be instrumental in promoting redistributive justice. The legal institution has to be used as a tool to initiate structural changes in society.

Mere enactment of provisions for the women workers based on the principle of equality and non-discriminatory treatment; safety, health, and welfare provisions at the workplace and maternity protection are not enough unless the same are implemented at the grassroots level. In this context, it is important that the women workers should be made aware about their constitutional rights through publications, booklets, posters, and pamphlets in regional languages. Electronic media (radio, television, interactive video-conferencing) should also take a pro-active role in spreading awareness on the legal rights to the women workers. Therefore, for effective implementation it is essential that gender-sensitization training programmes for labour law enforcers must be carried out.

The informal sector due to low unionisation has not been able to organise dissent and articulate the voices of workers within it (especially the women workers). Although, there are exceptions of few trade unions in the informal sector e.g. Working Women’s Forum, SEWA, National Fish Workers Federation, and the National Alliance of Street Vendors amongst others. There is an intrinsic linkage between awareness of labour laws and being members of trade unions or organisations especially working with women construction workers.29

Organisations and trade unions like Aajeevika Bureau, SEWA, Baandh Kaam Mazdoor Sangathan, and Nirmaan Mazdoor Panchayat Sangam in Ahmedabad and Delhi have been successful in organising construction workers in the implementation process of the Building and Other Construction Workers (Conditions of Work and Regulation of Employment) Act, 1996. They are instrumental in questioning the basic premise of not being able to organise informal sector workers. On a comparative scale, specifically for women construction workers, it was noted that the unionised workers were aware of the labour law legislations.30 Therefore, there is an increasing need for workers in this sector to be organised in order to articulate their positions in the labour market and demand changes in policy and the legal system.

Although, the work done by these organisations and unions has been recommendable in the informal sector, in some instances, their efforts fall short of actually articulating the position of disadvantage of women workers within the household, society and industry at large. Mostly their efforts are geared towards short-term benefits

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29 Refer to Chapter Six
30 Field work notes
for construction workers rather than long-term structural changes. SEWA works specifically with women workers in the informal sector, but their strategies are predominantly aimed at coping up mechanisms (e.g. providing loans, insurance, registration of workers, and skill training for construction workers). These short-term goals and coping up mechanisms should be eventually aimed at articulating broader structural changes (by questioning patriarchal biases within the household, society and workplace and ensuring gender sensitive policy measures and implementation processes).

These structural changes should be able to redefine work for women in the era of globalisation and informalisation of work. At a larger level, the informalisation of work should challenge water-tight categorisation of work within the organised or the unorganised sector, by shifting the analysis of work as being informalised (in both sectors). This would ultimately lead to a better definition of labour dynamics in the economy. Finally, the role of the state with regards to effective implementation process of labour laws, and social security provisions, especially, for the workers in the informal sector, should be emphasised. The organisations and trade unions working with workers in the informal sector are effective in negotiating with the state at the policy level, and with the workers, at the grassroots level. Therefore, the interactions between the two (the state and the organisations/ trade unions), in turn, would lead to improvements in living and working conditions of workers, especially, in the informal sector (here referring specifically to construction workers).

Within the construction sector, with regard to the conditions of work for women construction workers, it is not only necessary to train them in skill enhancement techniques, but also ensure employment opportunities. In addition, certain patriarchal biases in government policies which exclude women workers from certain types of construction works (e.g. Metro construction and Commonwealth Games construction) should be challenged in order to expand their employability.