



Decent work for informal sector workers in India

By Duarte Barreto, Fedina

1. Before we speak of decent work for informal sector workers of India, we need to remember that this sector represents about 380 to 400 Million workers, or about 91% to 92% of the active population of our country. In other words the organised sector represents only 8% -9% of the active population. The workers of the organised sector workers are in the administration and in modern industries, both private and public. The word “organised” underlines the fact that these industries have modern equipments, are involved in chain production and have obvious linkages with other institutions especially financial institutions. The organised workers are often unionised. It is one of their main characteristics. They benefit often of social security.
2. The unorganised workers are on the other side self employed or are working as rural workers or are engaged in cottage and small units. These industries are not in a vast network of production, their linkages with modern institutions are not that obvious, although they are real. Most of the time the workers in the informal sector are poor because they get subsistence wages. They are below, at or just above the poverty line. They are not covered by any social security measures. They are not unionised, in fact they are neglected by the trade unions.
The informal sector workers are obviously not an homogenous lot. They are involved in a variety of occupations. In rural and in urban sector. There are men and women and, there are therefore obvious sexual differences/ discriminations. Women sometimes get half of the wages men get for the same work and there is therefore preference for women.... Both in the rural and urban sector, we have still workers that are “relatively free” in the sense that they are involved in contractual relations or they are casual workers. On the other side we have bounded labours or workers that are obliged / forced to work, because they have borrowed money with the obligation of working permanently for those who lent money with heavy interest.

There are also Dalits or Untouchables and Non Dalits, called also other backward castes. The Dalits are victims of much discrimination. Traditionally they are obliged to live separately, in “colonies” as the places of their residence is called. They are not allowed to enter the temples; they do not have access to public places, even to the small teashops in the villages; they do not have access to public wells; they are not allowed to have land or other means of production and are obliged therefore to work as rural workers, for very meagre wages. They are obliged to do “dirty works” and they considered impure; finally they are obliged to show signs of reverence, respect to upper castes.

These are some of the major categories of discriminations the Dalits are victims of. A recent document of one of the Communist parties mentioned as many as 140 forms of discriminations. The number in fact is not important. What matters is the fact that put together these discriminations constitutes to what we call an “Indian apartheid”.

3. In spite of the fact that the informal sector is not homogeneous, we can point out to some characteristics that are some how common : the workers of the informal sector do not have regular jobs as their work is seasonal or they depend on contract or they are contractual workers. Many of them are obliged to migrate to other parts where there is some work; these workers do not have an employer. Their wages are very low, subsistence wages in most cases; the Dalit among the informal sector workers are obliged to do “dirty work” and are considered impure. Finally women workers of the informal sector do not enjoy parity in terms of wages and working conditions; finally these workers are unprotected in the sense that in most cases they do not have social protection, social security and are not entitled to old age pension.
4. **The question of Decent work.** The fact that almost all categories of informal sector workers are unprotected do not have social security and do not enjoy right to old age pension, underlines, the fact that the State is absent. The absence of State, or state organs can take two distinct forms: State has not enacted laws or laws that are enacted are not implemented by the State organs. Our state has enacted few laws but these laws are not implemented, enforced seriously. In the immediate aftermath of Independence from 1951 to 1961, a series of laws were enacted to introduce land reforms. Everyone agrees that these laws were not implemented properly with very serious consequences as far as agricultural and rural workers are concerned. In 1989 Dalit Atrocities (prevention) Act was passed and in 1991 Manual Scavenging(prohibition) Act was

passed. These two important laws that could have tremendous consequences for the improvement of working conditions and decent work of Dalit workers, are not implemented properly. Atrocities against Dalits in general specially against Dalit workers continue. Everyone agrees that there is nexus between upper, backward castes and the administration, at the village, taluk and district level.

In 1991 again important piece of legislation called Bonded Labour(prohibition) Act was passed. Bondage that could be compared to serfdom still persists especially in rural areas. A study conducted by Centre for Education and Communication, a Delhi based organisation made them say as conclusion that the Bonded Labour system is not over, that it is all over.... Here the situation is complex. The rural workers do not have regular work. The Minimum wage legislation is not observed and the wages in practice in the market are below subsistence. Rural workers get therefore indebted and bondage is a recurring phenomenon, a consequence of extremely low wages.

There is legislation regarding minimum wages. All States (India is a federation) have minimum wage law. These laws are however not respected and State organs are not obliging the employers both in rural and urban areas, even in sectors that are almost modern and organised in many respects to comply with them. The result is that employer- employee relations in terms of wages, working conditions are left in most cases, to market or to the law of supply and demand. As supply is higher than the demand in most cases, except may be in the early rainy season, the wages are lower than the stipulated and statutory minimum wages. As far as the women's wages are concerned they correspond to the half or two third of men's wages. If we think therefore of decent work for informal sector workers, we have to squarely confront the discrimination women are confronted with in term of work, wages and working conditions.

5. National Rural Employment Guarantee Act (NREGA) in 2005 the Indian Government introduced a new law that could alter profoundly market determined labour relations and also the discrimination of women in terms of work and wages.

The law is called National Rural Employment Guarantee Act. Before we explain the law, called legislation on Right to work, we have to say that the trade unions, action groups, few NGO's, had vigorously campaigned for ten years for the right to work. These organisations were demanding that the Government through a vast public works programme creates gainful employment in rural areas for about 200 days. The reasoning was simple: rural workers get employment during

80-100 days a year. If additional employment is created for an other 200 days, through the public works, a situation of full employment could be created. The labour market would definitely be favourable to labour in terms of wages and in terms of bargaining power.

The successive governments were hesitating to say the least. In one State Maharashtra such law was passed few years ago, and the landlords were hostile precisely because the bargaining power of the rural workers had increased considerably. For these reasons the rich farmers of the other states, specially the rich states of Punjab and Hariyana were dead against Rural Employment Guarantee Act.

The Governments were responding to the right to work campaign, introducing welfare measures. One such measure was Food for work programme. As the campaign right to work gained momentum Indian government agreed to introduced National Rural Employment Act in 2005 in 180 districts on "experimental basis". As the experiment was "successful" the National Rural Employment Guarantee Act was extended progressively to all the districts. From 2008 it is a National Programme as it was extended to all the 535 districts of the country. The Government however waterdowned the programme providing work for 100 days a year as against the 200 days, the campaign right to work was demanding.

In spite this limitation, The National Rural Employment Guarantee Scheme has some positive features. The programme has to be implemented, by the district authorities, by the Panchayaths (or the rural municipalities) themselves and cannot be entrusted the contractors as was the case with the Food for work and other programmes. Heavy equipment can not be used so that only man power is used. On the other side the workers need to register themselves and get job cards. Within fifteen days those who have applied for job must be given work; the job seekers can claim unemployment allowance if work is not given within two weeks. No piece rate is allowed and the working day is seven hours. The wages cannot be below statutory minimum wages. Men and women are entitled to the same wage. In other words equal work equal wage. Finally there is what is called social audit and the workers, their representatives or representative of civil society organisation are entitled to get whatever information they demand regarding the National Rural Employment Guarantee Act. This is what is called social audit. It is an institutionalised system of monitoring and control by the public. Right to Information Act can also be applied to get whatever information one may need regarding National Rural Employment Guarantee Act. Different type of works can be done through The National Rural Employment Guarantee Act. Improvement of rural infrastructures, desilting of lakes, water harvesting and restoring water

sources, reforestation can be envisaged. The National Rural Employment Guarantee Act allows even work that will improve lands of Dalits, tribals and very poor peasants....

6. **Scope for Unionisation:** The National Rural Employment Guarantee Act can change the dynamics in the countryside and give scope for unionisation of Rural Workers and prevent rural exodus and rural migration. Providing right to work, with unemployment allowance and equal wages for men and women, it can change capital (land) labour ratio in favour of labour. It can contribute to increase in wages in areas other than The National Rural Employment Guarantee Act. In other words empowered rural workers, can demand minimum wage from landowners, contractors and other employers. It can decrease internal migration and this in turn can increase the bargaining power of the agricultural workers. It was reported in the news paper that there was scarcity of labour in Panjab because seasonal workers from Bihar had not migrated to Panjab. Workers from Bihar had not migrated to Panjab, because National Rural Employment Guarantee Act, had created job opportunities in their respective areas, in Bihar itself.

The programme is not implemented properly. " There is no denying that in the first three years of the programme have shown that National Rural Employment Guarantee Act suffers from many ills-leakages and delays in wage payment, non payment of statutory minimum wages, work only for an average 50 days per annum as against provided 100 days, fudged meter rolls, few durable assets and even fewer sustained livelihoods" (Mihir Shah in Hindu Friday August 14 2009, member of Planning Commission).In spite of all these limitations, National Rural Employment Guarantee Act, changing capital labour ratio has potentials to create opportunities for unionisation of rural workers. It can help implement ILO conventions, or declaration on decent work of November 2008. This declaration proposes four measures to promote decent work agenda, namely by creating employment, by providing social security, by providing tripartite Social dialogue and finally by respecting and realising core labour rights.

In Indian context, specially in the background of informal sector workers situation described above the respect of core labour rights is of utmost importance. Let us mention these Conventions ILO convention: No-87 of 1948 is about right to form unions; ILO convention No 98 of 1949 is about collective bargaining; ILO Convention 105 of 1957 is about eradication of all forms of forced labour; ILO convention No 138 of 1973 is about elimination of child labour; ILO Convention no 100 of 1958 on equal wage for equal work and no gender based discrimination;

finally we have the convention no 111 of 2007 about the right of traditional fishermen to have access to sea.

These conventions are binding on India, as member of ILO. We need however to state emphatically that India has not signed the convention No. 87 about right to form a union and Convention no. 98 about the right to collective bargaining. State is not therefore bound to respect these conventions. Incidentally, we can say that not signing these two Conventions is a deliberate act of the State and successive Governments. Given also the fact that the trade unions are not much present in the informal sector, it is difficult for them to raise informal sector workers problems in the tripartite negotiations. Informal sector workers, must therefore organise themselves, form unions and with the help of existing unions and civil society organisation, see that all Core Labour Rights, are respected in the work places and in the society. The National Rural Employment Guarantee Act, changing the capital-labour ratio can definitely help the process of unionisation and contribute to transformation of informal sector economy and make it decent or less hard and less exploitative for workers.