

SAFETY AND HEALTH AT WORKPLACES

OCCUPATIONAL SAFETY AND HEALTH WITH A FOCUS ON GENDER

WEBINAR REPORT

Co-convened by
PRIA International Academy, V.V. Giri National Labour Institute,
and Martha Farrell Foundation

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The human, social and economic costs of occupational accidents and diseases have long been a cause for concern. Modernisation and mechanical innovation has catapulted the rise of chemical, hazardous, and polluting industries, and with it unsafe working conditions and occupational risks. Nearly 48,000 workers¹ die every year in India due to occupational accidents, with 38 fatal accidents taking place every day in the construction sector and 47 in factories alone². Consequently, Occupational Safety and Health (OSH) has come to be recognised as a joint State and Corporate responsibility, entrusting them with ensuring health and safety for every worker employed in any sector across the economy.

Behind every occupational and industrial accident are preventable factors that can be preempted and eliminated by enforcing prefixed safety standards and measures. An efficient application of the same has demonstrably significant impacts on human as well as economic costs. Notwithstanding glaring gaps in the strategies to implement them, especially in informal workplaces, there tends to be widespread dissension in the kind of issues each sector deals with, rendering a gender-blind umbrella code for all sectors meaningless and ineffective. While the intensity of work hazards might differ between the different kinds of work, its gravity can be understood only when gender diversity in the workforce is recognised and its knowledge considered vital for ensuring the safety and health of both men and women workers. Despite women's overwhelming numerical strength and contribution to the GDP, some of the most basic rights are denied to them, and their interests not taken into account while framing policies. Moreover, it has been made abundantly clear that women in the informal sector are the worst hit due to this double omission.

The growing informalisation is made evident by the fact that between the 5th and 6th Economic Census (2005 and 2013), although employment has increased by 28%, the number of workers has grown only by 19%, which means that there has been a growth of small establishments employing

¹ <https://timesofindia.indiatimes.com/business/india-business/48000-die-due-to-occupational-accidents-yearly-study/articleshow/61725283.cms>

² <https://www.thehindubusinessline.com/companies/3-workers-die-47-are-injured-every-day-in-factory-accidents/article26378544.ece>

less workers or without any workers. Of the total 5 million increase in workers³ between the two Economic Censuses, three million were hired workers (on record with appointment letter and pay slip). Majority of the workers in India are involved in the informal sectors⁴ (94%), including agriculture, construction, or home-based activities like beedi making, garment-making, tailoring, food processing etc., all of which share an overwhelming presence of women workers. But they are not covered under the existing health and safety legal framework, even though women account for 132.4 million workers out of the total 474.1 million workforce. Women constitute a majority of India's unorganised sector workers, primarily the agricultural workforce, domestic and sanitation workers, home-based workers, and para-medical workers. In each of these sectors, they encounter a different set of occupational hazards that fail to enter the mainstream discourse around workplace health and safety.

To galvanise the growing movement around occupational health, guidelines issued in the near future must also anticipate the aftermath of the COVID pandemic and lockdown on this demographic. Every year, the toll on workers' lives, health, and livelihoods is far too high. But this year, in the midst of a pandemic, the story is especially egregious and heartbreaking. The eyes of the world are focused on working men and women. The spotlight is on those who are providing the essential services we all rely on to keep society functioning— from the health care, hospital workers, and emergency responders caring for those stricken with the deadly coronavirus, to the millions working to provide the food, transportation, deliveries, and other essential goods and services we all depend upon. Some very focused data collection will doubtlessly reflect a large estimate of the number of people who have been exposed to the virus at their workplaces. Then there are millions of domestic workers and sanitation workers who are now confronted with unemployment, ostracisation, deprivation, exploitation and harassment.

In this backdrop, V.V. Giri National Labour Institute (VVG NLI), PRIA International Academy (PIA) and Martha Farrell Foundation (MFF) organised a webinar titled “Safety and Health at Workplaces: Occupational Safety and Health with a Focus on Gender” on 28 April, 2020, which

³ <https://www.thehindubusinessline.com/economy/macro-economy/6th-economic-census-shows-pickup-in-establishments-jobs/article8423531.ece>

⁴ <https://thewire.in/women/indian-women-work-care-informal-sector>

is the World Day for Safety and Health at Work. Commemorated by some as the International Workers' Memorial Day, it is an occasion to promote safety and health in the workplace and raise awareness on emerging trends in the field of occupational safety and health, in honour of those who have suffered and died of injuries and illnesses related to their work.

Moderated by Ms. Nandita Bhatt, Director, MFF, the session began with Dr. H Srinivas, Director General of VVGnLI, Noida, delivering the opening address. Panelists included Mr. PK Goswami, Deputy Director at Directorate of Industrial Safety and Health (DISH), Labour Department, Government of Delhi, Dr. Rajesh Tandon, Founder-Director, PRIA, Ms. Amarjeet Kaur, General Secretary of All India Trade Union Congress (AITUC), Mr. SA Azad, Director, People's Rights and Social Research Centre (PRASAR) and Ms. Aya Matsuura, Gender Specialist, ILO Decent Work Team for South Asia. Mr. Souvik Bhattacharya, Member of National Campaign Committee on Unorganised Sector Workers, shared his experiences from the field after which the panelists addressed some of the questions from the audience. Dr. Ruma Ghosh, Fellow (Faculty Member) and Coordinator, Centre for Labour and Health Studies, VVGnLI, then presented her concluding remarks. Attended by over 80 participants including Labour Department Officers, development professionals, gender rights activists, Trade Union leaders, Faculty Members of VVGnLI, the programme tabled the following points for discussion:

- Defining safe and healthy working conditions
- Gender differences in occupational safety and health, such as exposure to hazards, health outcomes and access to resources
- Challenges in enforcement and mitigation of workplace hazards
- Gaps in knowledge and information – employer/worker, men/women; case studies from India
- Role of unions in establishing a gender inclusive standard for informal and formal workplace in a changing world of work
- Actions for mainstreaming gender into OSH, promoting occupational safety and health in the workplace

NEW PERSPECTIVES

World Day for Safety and Health at Work presented an opportunity to look deeper into Occupational Health and Safety and seek new ways to improve the situation in light of the COVID-19 pandemic. A number of new perspectives emerged from the deliberations.

- **In India, where over 90% of the workforce is in the informal sector, labour legislation and codes continue to be exclusionary.** Existing provisions under the Factories Act, ESI Act and Workmen's Compensation Act offer limited coverage and their implementation leaves a lot to be desired. The currently-tabled draft legislation, supposedly consolidating all labour codes in its corpus, has also faced harsh criticism for focusing only on the formal sector, leaving a vast section of the workforce without health and safety coverage. It is, therefore, important to recognise the unique challenges to occupational safety and health for workers in each sector, and factor in a gendered response to each at the policy level.
- **The pandemic followed by the economic lockdown has resulted in the convergence of Occupational Health, Environmental Health and Public Health,** blurring the boundaries of these three fields and corresponding issues. There is a growing demand for protective gear and proper safeguards for workers, especially engaged in healthcare, local governance, and relief operations. Long-standing issues regarding workers' compensation, work hours, safety from hazards have coupled with risks of community transmission, and increased economic burden during the lockdown period.
- **Uncertainties and anxieties related to work have predated the COVID crisis, but they are likely to worsen and persist in the post-lockdown future,** primarily for workers in the informal sector. Steadily depleting social security has put greater stress on workers in medium scale enterprises (MSEs) and small manufacturing units, where women are employed in large numbers. Health and retirement benefits are being revoked for factory workers in many states. For informal women workers who are already unentitled to maternity leaves, this sets a dangerous precedent.
- **Work-from-home brings with it a unique set of challenges to an employee's occupational health and safety,** from an increased vulnerability to online bullying and

harassment, to unequal domestic roles and a spike in family violence. Another aspect of occupational risk is posited by increased screen time, bad posture and related ergonomic disorders.

- Gaps in safety codes, lack of washrooms and a separate area for lunch breaks plague both informal and formal sectors. To renew the fight for workplace safety and health, and prepare for a better **Future of Work** post-lockdown, it is important to build a robust infrastructure to maximise and ensure health safety of workers, in terms of access to welfare provisions, proper gear, washrooms, clean drinking water, changing facilities - with special considerations for women workers.

PANELISTS

Inaugural Address

DR. H. SRINIVAS
Director General
V.V. Giri, National Labour
Institute, Noida



Moderator

NANDITA BHATT
Director
Martha Farrell Foundation



Closing Remarks

DR. RUMA GHOSH
Fellow (Faculty Member) and
Coordinator, Centre for Labour and
Health Studies, V.V. Giri, National
Labour Institute



Amarjeet Kaur
General Secretary
All India Trade Union
Congress (AITUC)



Dr. Rajesh Tandon
Founder-Director
PRIA
New Delhi



PK Goswami
Deputy Director at
Directorate of Industrial
Safety and Health (DISH),
Labour Department,
Government of Delhi



SA Azad
Director
People's Rights and Social
Research Centre (PRASAR)



Aya Matsuura
Gender Specialist
International Labour
Organisation (ILO),
Decent Work Team
for South Asia

OPENING STATEMENTS by Dr. H Srinivas

This World Day of Safety and Health arrives at a moment in history when essential service providers are putting their lives quite literally on the line to combat the COVID pandemic. It is, therefore, a good opportunity to analyse the impact of new forms of technology and employment on the world of work and economy.

The borders between the formal and the informal economy have been further narrowing and there is a global shift from formalisation to informalisation. Recent modifications in labour laws concerning women have made it possible for women to work night shifts and take 26 weeks of maternity leave (as opposed to 12).

A major development that is underway involves the proposed merger of 40 labour codes into 4 broad codes on wages, OSH, social security and industrial relations, in a first-ever critical assessment of India's century-old labour laws. Dr. Srinivas states that the code universalising the wage system has already become an Act, while the proposals for Code on Industrial Relations, Code on Social Security and the OSH code are currently under consideration.

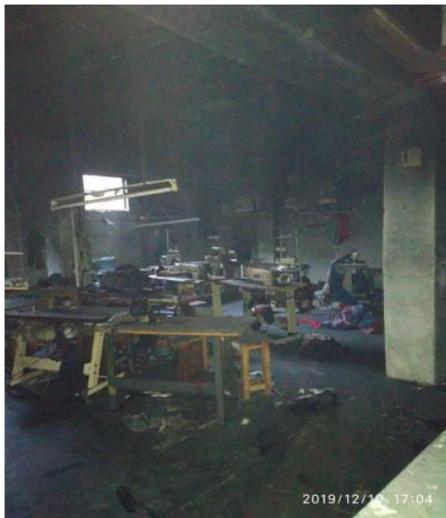
The code on OSH aims to provide better and safer working conditions at work while providing flexibility to make rules and regulations based on technology that is likely to emerge in the future. This code is an amalgamation of 13 labour laws relating to safety and workers' rights like the Factories Act (1948), Building and Other Construction Workers Act (1996), Contract Labour Act (1970), Beedi and Cigar Workers Act (1966), Interstate Migrant Workmen Act (1979), Dock Workers Act (1986), Working Journalists Act (1962) among others.

The ambit of the code will be expanded beyond the sectors covered in the present code, particularly addressing the issue of migrant workers, along with health concerns of workers by mandating medical examinations which would help in detecting occupational diseases. In order to reduce the number of accidents, all stakeholders must unite in raising awareness and community participation so that workers are aware of their rights. That will help us move closer to an environment where the worker is truly safe.

KEY CONSIDERATIONS

PK GOSWAMI

1. **With or without labour laws, gaps in implementation and coordination efforts make safeguarding OSH and creating awareness around it challenging.** P. K. Goswami elaborates how in urban industries, contractors are reluctant to provide brick kiln workers and construction workers with safety equipment and protective gear. He recounts that even in the heights of a pandemic, it is difficult to persuade contractors and site managers to ensure water (for hand-washing) or even sanitisers for construction workers. He also draws attention to the lack of awareness among workers of their rights and interests - referring to the Anaj Mandi incident in East Delhi, where an illegal factory caught fire in December 2019, resulting in 43 deaths and 56 injuries. Migrant workers were reportedly using the premises for lodging as well - a phenomenon that is exceedingly common, due to the lack of provisions for accommodation or rent allowance when it comes to the informal sector. Many of the workers were minors, exit routes were found partially blocked and several windows were found sealed, in egregious violation of labour laws⁵.



Anaj Mandi, Delhi. Source: PK Goswami

⁵ https://www.business-standard.com/article/current-affairs/anaj-mandi-fire-tragedy-delhi-police-arrests-building-owner-his-manager-119120800655_1.html

2. **Delay in reporting industrial accidents makes fact-finding impossible.** Investigation is often protracted and not done in a timely manner. Concerned authorities must be informed immediately after a disaster - not a week thereafter - to ensure that the premise is sealed, for investigation to happen accurately. Moreover, compensating victims is erroneously regarded as the culminating point of this accountability process. Very rarely are changes made to the structure that allowed the disaster to happen in the first place, argues Goswami. An accident warrants an urgent investigation of systemic deficiencies in all industrial establishments, followed by corrective measures and regular inspections.

DR. RAJESH TANDON

3. **Dr. Rajesh Tandon takes this point forward to contextualise the dangers posed to frontline health workers and community leaders dealing with the COVID pandemic.** Medical professionals are facing numerous hazards including pathogen exposure, long working hours, psychological distress, fatigue, occupational burnout, stigma, and physical and psychological violence. The global rate of infection amongst healthcare workers is close to 30% of all cases⁶, and till May 7, nearly 600 healthcare workers in India, including 274 nurses and paramedics, have tested positive for COVID-19. About 30-40 lakhs of people have been mobilised over the past two months, of which nearly two-thirds are women - including doctors,



nurses, paramedics, as well as informal careers like the ASHA and anganwadi workers who are at the forefront of this public health crisis. Their complaints regarding the lack of Personal Protective Equipment are not being adequately addressed, even as orders are being issued to ensure PPE kits for formal health workers.

Source: PRIA India

⁶ <http://www.millenniumpost.in/nation/some-600-healthcare-workers-in-grip-of-covid-19-408399>

4. **Also missing are efforts to take cognisance of the threats frontline health workers face on the frontline, and to address issues like ostracisation, discrimination, harassment and obstruction of their work in various states.** The roles of Women Elected Representatives (WERs) in Panchayats and primary school teachers who are leading a heroic effort in educating their communities on the importance of sanitation, social distancing and staying home, also remain unacknowledged and excluded from the formal definition of healthcare services, Dr. Tandon said.
5. **Shedding crucial light on the paradigm shift in work culture, Dr. Tandon shifted the gaze to the formal sector as employers navigate an increased dependency on technology.** The impact is two-pronged, one being the physiological aspects of increased screen-time and sedentary lifestyle - often causing body aches, bad posture and chronic ergonomic issues in the long-term.
6. **Women are now more prone to being sexually harassed online and bullied at their digital workplaces,** with very little recourse due to Internal Committees or Local Committees being largely absent during the lockdown. Employers must play an active role in curating a proper framework for redressal, and lending psycho-social support to employees, Dr. Tandon reiterated.
7. **As home becomes the workplace, countries across the globe have also been reporting a spike in domestic violence.** He also brought to light that for 24.21 crore self-employed workers⁷ and home-based workers like beedi workers, agarbatti makers and chemical workers, there had never been a distinction between workplace and home, thereby making themselves and their family members vulnerable to the workplace hazards all throughout the day.

AMARJEET KAUR

8. **Amarjeet Kaur highlights the grave disparity between women in formal and informal sectors when it comes to childcare and maternity leave.** While maternity benefits were recently increased to 26 weeks, the right was accorded only to women in the formal sector.

⁷ <https://www.financialexpress.com/economy/covid-19-pandemic-90-of-indias-estimated-47-crore-workforce-not-entitled-for-any-lay-off-benefits/1904866/>

Kaur says the coverage is, therefore, only for 1-2% of the women workforce, while 40 million women are exempt from it. While speaking of women, one cannot omit the question of children and childcare, as workers in the unorganised economy - notably domestic, agricultural and construction workers - are known to take their children to the workplace, for lack of affordable and safe daycare. Often, it paves the way for child labour.

9. **Introducing a crucial perspective on health and hygiene concerns at the workplace, Kaur says that the presence of clean water and washroom facilities in Indian workplaces is debatable, even in organised sectors.** In its worst form, women in the informal sector have been known to drink less or no water during work hours because washrooms are absent in most workplaces. Even if they are available, employers allege that they are wasting their time on bathroom breaks. This often leads to dehydration and urinary tract infections. Similarly there are several challenges that workers in the informal sector face. For example in the aqua-farming sector, prolonged exposure to saline water (their work involves sitting on the floor) creates menstrual complications and even infertility at times.



Source: PK Goswami



10. **The burden of the COVID pandemic is being steadily evidenced in the dwindling social security for informal workers,** including women in small and medium-scale manufacturing enterprises (MSMEs), daily-wage earners, hawkers and vendors, self-employed workers and

migrant workers. An amendment to the Factories Act proposes raising the number of working hours from 8 to 12 hours⁸ in four states, with the idea that longer working hours would increase labour productivity and output growth. But it is a move that shifts the burden disproportionately onto workers, observes Kaur. She also warns of the impact of denunionising Export Processing Zones (EPZs) that employ women in large numbers.

11. To make matters worse, a large number of women in the informal sector (domestic workers) and in MSMEs have not received their salaries in March. In a study MFF undertook during the lockdown, out of 101 informal workers, 70 reported receiving no or partial wages for March. For the latter, their Employees' Provident Fund (EPFO) and Employees' State Insurance (ESIC) have been revoked (purportedly to fight COVID-19^{9 10}), thus depriving already vulnerable workers of a safety net. This aligns with trends noted in the aftermath of 2008's economic crisis, when public spending on health per person fell by almost 30 percent¹¹, sickness benefits and funding for health insurance schemes were slashed. It is also essential to remember that Beedi workers, agarbatti makers (Mysore) and chemical workers lack any insurance for their safety and health.

12. The issue of ration is also prevalent, especially among home-based workers who do not have ration cards. Despite being registered under BPL, they are not receiving rations they are entitled to¹². This has also predominantly been the case for domestic workers in MFF's action network, who reported back with details of households in their communities that have remained in the blind spot in terms of ration disbursement¹³.



Source: Martha Farrell Foundation

⁸ <https://thewire.in/economy/covid-19-working-hours-economy>

⁹ <https://www.financialexpress.com/economy/trade-unions-against-any-move-to-increase-daily-working-hours-from-8-to-12/1927333/>

¹⁰ https://wap.business-standard.com/article-amp/current-affairs/mp-plans-to-ease-labour-laws-factory-safety-norms-as-it-woos-industry-120050601307_1.html?_twitter_impression=true

¹¹ http://www.euro.who.int/__data/assets/pdf_file/0008/289610/Economic-Crisis-Health-Systems-Health-Europe-Impact-implications-policy.pdf?ua=1

¹² <https://www.indiaspend.com/covid-19-displaced-out-of-work-artistes-of-kathputli-colony-struggle-for-two-meals/>

¹³ <http://www.marthafarrellfoundation.org/blog/are-we-invisible-domestic-worker-anjuman-bibi-asks-in-light-of-lockdown/>

13. Laws for women working night-shifts and modifications to allow women in hazardous industries are tricky pieces of legislation in the Indian context. While the European Union Court of Justice deems it a violation of the fundamental right (to equal treatment at work) except for cases of pregnancy and maternity¹⁴, the Factories Act (of India) bans women from working in any factory except between the hours of 6 AM and 7 PM. However, without arranging for conveyance to transport women to and from work safely, the alternative is not practicable. The Karnataka government recently gave blanket permission to employ women 24/7 in all industries, provided employers get a consent note from female workers¹⁵. Kaur highlights health issues related to working night shifts and further calls for a strengthening of corporate framework to prevent and redresses sexual harassment at the workplace before asking women to work at night. Kaur also subjects another recent amendment - to allow women to work in hazardous sectors unless pregnant - to similar gender scrutiny.

SA AZAD

14. More than 90 percent of workers employed in the informal sector have no access to occupational health and safety and legal provisions for the same. At present, the Factories Act 1948 classifies manufacturing enterprises employing at least 10 workers and where production is carried out using electricity, as a factory. **SA Azad** observes that there is no legal provision in India that covers the small scale factories or cottage industries where less than 9 workers are employed, which come under the informal sector. Informal employment is mainly casual, part-time or temporary. In such jobs, no clear employer-employee relationship exists, thus putting such workers outside the framework of labour laws.

15. After the containment lifts, informal sector workers will face a litany of challenges. According to an initial assessment by the ILO, almost 25 million jobs¹⁶ could be lost worldwide as a result of COVID-19, with the consequent loss of income and social protection (for unprotected workers) as well as a significant increase in working poverty. Jobs that are

¹⁴ <http://ncwapps.nic.in/pdfReports/NIGHT%20SHIFT%20FOR%20WOMEN.pdf>

¹⁵ <https://www.thehindu.com/news/national/karnataka/women-allowed-to-work-in-night-shifts-in-all-factories-in-karnataka/article30028455.ece>

¹⁶ https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_738742/lang--en/index.htm

overwhelmingly performed by working class women run the risk of being lost. Recent data from the Centre for Monitoring of Indian Economy revealed that 91.3 million including daily wagers and those working with small traders were out of jobs in April, followed by 18.2 million employment loss of entrepreneurs, and 17.8 million among salaried class. The rate of unemployment has climbed to a staggering 27.1% (as of May 3)¹⁷. Those that manage to return to work will find many labour codes diluted or bypassed to the detriment of occupational health and safety, for example, increased work hours and absence of safeguards from workplace exposure to COVID infection.

16. In 2019, the central government proposed to streamline over 40 labour laws by codifying and converging them to just 4 broad laws. To that end, the Union Cabinet approved the Code on Occupational Safety, Health and Working Conditions Bill to merge 13 central labour laws into a single “code.”¹⁸ According to the government, the rules will make it mandatory for employers to give workers an offer letter and an annual medical check-up. The lack of pay slips or appointment letters often makes it difficult to prove a worker’s employment at any given concern, and thus, to investigate workplace accidents therein. Trade unions are challenging it as it is still exclusionary, in the sense that it will apply to all establishments employing 10 or more workers, again leaving informal workers in the lurch. This is particularly detrimental to domestic workers, as the private and personal nature of their employment further removes them from the definition and rights of informal workers who work for a firm or a contractor¹⁹.

AYA MATSUURA

17. Speaking of the gender disparity in domestic roles, Aya Matsuura takes stock of the evidence which shows how women are doubly burdened with unpaid care and domestic labour in this new work-from-home situation. Women in India are known to perform 5.8 hours of (unpaid) domestic work daily (as opposed to 51 minutes for men), besides contributing to the economy²⁰.

¹⁷ <https://www.livemint.com/news/india/india-s-unemployment-rate-climbs-to-27-1-121-5mn-out-of-work-cmie-11588683100926.html>

¹⁸ <https://timesofindia.indiatimes.com/india/cabinet-approves-bill-to-merge-all-labour-laws-into-single-code/articleshow/70166151.cms>

¹⁹ <https://www.wiego.org/typology-domestic-workers>

²⁰ <https://stats.oecd.org/index.aspx?queryid=54757>

18. **Safai karamcharis, teachers, care workers, shopkeepers, construction workers, agricultural, transport and delivery workers are at the sharp end of the COVID crisis because they are engaged in managing the pandemic.** Not only do they face an increased risk of spreading as well as catching the virus, there is also a high occurrence of violence against those maintaining essential services (shopkeepers, health professionals, etc.) due to the stress of COVID-19, observes Matsuura. She added that post-lockdown, domestic workers sanitising households, waste management workers cleaning streets and cleaners keeping offices hygienic will experience increased exposure to infections. These are also the workers who continue to be under-protected and underpaid with no framework ensuring their safety. Kaur, in this regard, cites the example of highway sweepers who sleep at bus shelters on the roadside, because they must report to duty around 4-5 AM. In the absence of allocations to transport them at that hour, they are vulnerable to occupational hazards (getting run over on the pavement, exposure to diseases) and sexual harassment at their workplace (as they rest by the roadside at night un-invigilated). Some sanitation workers even bring their children to work, as daycares are closed when their day begins.²¹



Source: PRIA India

²¹<https://www.newindianexpress.com/cities/bengaluru/2018/jul/30/my-5-yr-old-sleeps-plays-by-the-road-when-i-work-says-unhappy-sweeper-1850536.html>

19. **The COVID crisis has irrevocably changed the standards of workplace safety. As the economy opens up,** it will be a particularly thorny challenge for employees to prove that they contracted Coronavirus at the workplace (if they test positive), thus making it difficult to seek compensation. Domestic workers, for example, would be questioned if they come from hygienic areas, or whether they have been tested for coronavirus. Many will be refused readmission to their workplaces, which is going to exacerbate the economic crisis for sole earners, which in turn will increase the risk of domestic violence, argued **Souvik Bhattacharya**. The government has directed Resident Welfare Associations (RWAs) to take the call regarding allowing entry to outsiders, after which many DWs reported being asked not to come. This scepticism will have a very visible impact on daily wage earners and migrant labourers. The lack of security coverage for vegetable vendors in Kolkata, West Bengal, is quite telling. Also referring to the plight of women workers stranded in construction sites and tea plantations across North Bengal and Assam, Bhattacharya presented the view that urban spaces were much safer for migrant workers, on health, domestic as well as political fronts.

OCCUPATIONAL SAFETY & HEALTH
WITH A FOCUS ON GENDER



Martha Farrell
FOUNDATION

90% OF INDIA'S WORKERS WHO ARE IN THE INFORMAL SECTOR MUST BE BROUGHT INTO THE FRAMEWORK OF LABOUR LAWS.



COORDINATED EFFORTS IS NEEDED TO ENSURE WORKERS' SAFETY, ESPECIALLY OF FRONTLINE HEALTH WORKERS IN THE PANDEMIC, MOST OF WHOM ARE WOMEN.

TIMELY REPORTING AND INVESTIGATION INTO INDUSTRIAL ACCIDENTS IS NEEDED.

THE GOAL SHOULD BE TO COMPENSATE VICTIMS AND MAKE STRUCTURAL CHANGES TO AVOID RECURRENCE.



ABSENCE OF CLEAN WATER AND WASHROOM FACILITIES PLAGUES BOTH INFORMAL & FORMAL SECTORS.

INFORMAL WOMEN WORKERS GET NO MATERNITY LEAVE.



JOBS THAT ARE OVERWHELMINGLY PERFORMED BY WORKING CLASS WOMEN (DOMESTIC & SANITATION WORK) RUN THE RISK OF BEING LOST POST-LOCKDOWN.

IF WOMEN MUST WORK NIGHT-SHIFTS, THERE MUST BE ARRANGEMENTS FOR THEIR LODGING, SAFETY & TRANSPORT.

SELF-EMPLOYED WORKERS HAVE NO HEALTH INSURANCE OR SOCIAL SECURITY



DOMESTIC VIOLENCE AGAINST WOMEN, ONLINE SEXUAL HARASSMENT AND CYBER-BULLYING OF EMPLOYEES NEEDS TO BE ADDRESSED.

AMENDMENTS TO LABOUR CODES HAVE RAISED WORKING HOURS TO 12 HOURS/DAY, PROPOSE TO REVOKE EPF & ESIC FOR FACTORY WORKERS. INFORMAL SECTOR IS STILL OUTSIDE THE AMBIT OF THE NEW CODES.

AS HOME BECOMES WORKPLACE DURING THE LOCKDOWN, WOMEN ARE OVER-BURDENED WITH UNPAID DOMESTIC LABOUR.



THE COVID CRISIS HAS IRREVOCABLY CHANGED THE STANDARDS OF WORKPLACE SAFETY. ESSENTIAL SERVICE PROVIDERS WILL FACE GREATEST EXPOSURE TO INFECTION POST-LOCKDOWN, & MUST BE SAFEGUARDED.

KEY DIRECTIONS

CONCLUDING REMARKS by Dr. Ruma Ghosh, VVGNLI

Dr. Ruma Ghosh while summing up reiterated the fact that there is a need to protect all workers – both women and men – from the inherent risks of their work in the light of technological changes that are taking place in the world of work and the accompanying risks. This has been emphasized in the ILO Resolution on Equal Opportunities Treatment (ILC, 1985).

Over the years it has also been seen that establishments are getting smaller. The fragmentation of units into smaller ones increases vulnerability of the workers as there are no regulations to protect workers below a particular size threshold. Majority of workers in India are in the informal sector (90%) who work as agricultural labour, seasonal workers, own account workers/self employed workers, migrant workers. Home-based workers represent 14% of employment in the non-agricultural informal sector, where there is a large concentration of women workers. Such informal workers who work temporarily or are self employed are usually very vulnerable in terms of the work they do and often it is hazardous. However, there is no safety cover for these workers.

OSH initiatives are also restricted to manufacturing and that too in formal units having 10 or more workers. But a large number of workers in agriculture 44.1% (NSSO, PLFS 2017-18) among whom majority are women workers, handle pesticides and other toxic chemicals that are hazardous to their health. Moreover, they work for long hours in particular postures and as a result, face a lot of ergonomic problems which must be taken into account while organising initiatives. Women working from homes are doubly burdened because of the multiple roles they play and spend an average of 4.5 hours to do unpaid work, besides contributing to economic activities. Therefore, the effects of gender on health needs to be explored to develop a better understanding of the relationship between women's health and social and economic roles.

There is a need to remove size based threshold in manufacturing to cover all workers, even if they are working from homes. The 2nd National Commission on labour had, in fact, recommended that there should be a separate law to protect workers in small establishments.

There should also be effort to bring women to the forefront and increase their representation on OSH matters. They should be adequately represented in decision-making bodies, on enterprise-level safety and health committees and enforcement teams in order to ensure that the safety and health issues of women workers get their due attention.

IMMEDIATE MEASURES

As businesses prepare to open in many parts of the world, workers are weighing their risk of exposure to the novel coronavirus, against the need for a paycheck. Protecting workers will become even more important in the months ahead. Unless employers take the necessary action to ensure safe workplaces for their employees, more workers will be sickened, infectious hot spots will proliferate, and businesses themselves suffer, further disrupting economic recovery.

- Issue rigorous safety standards and enforce compliance to protect all front-line workers. That includes providing PPE to all, not just formal health workers. It must also ensure that domestic and sanitation workers returning to work after containment lifts are adequately protected from exposure to the virus.
- Train the workers on how to protect themselves from infection but also from other possible risks including possible incidents of violence and harassment.
- Instead of importing PPE's, encourage and capacitate local industries to home-grow PPE's
- This year's World Day of Safety at Work focused on the outbreak of infectious diseases at work. Government and labour unions must take the responsibility to create awareness post-lockdown about OSH.
- Curate effective referral and support systems for survivors of workplace violence and exposure to diseases
- Ensure workers' health and social security. It is essential that ration is provided to home-based and informal workers (without ration cards) for free, at least in the 3-4 months. Implement the Public Distribution System (PDS) to ensure their survival, especially women workers who are the sole breadwinners of their families.

LONG-TERM MEASURES TO STRENGTHEN OSH

- There is a need to understand physical hazards, identify factors, prioritise and categorise risks and maintain a check-list for what a safe work environment entails.
- It is critical to create and follow fixed standards for personal protective equipment, sanitation, and hazardous substances through engineering control, ensuring regular machine checks, protective gear for workers, reducing or substituting risks. This includes training workers sufficiently to adhere to health and safety codes
- Extend coverage of Factories Act, 1948, to informal sectors. This must extend universal entitlement and fund to informal working women, during and after pregnancy.
- Convert ICDS centres into full-time centres to serve as daycare centres for informal workers' children.
- Push for inclusive labour laws. Kaur said, "Even if the laws are universal in nature then they need to be sector-specific so that it caters to all kinds of workers. Codes and legislations need to be separate for the workers who are not met under the already existing laws."
- Implement all existing provisions of labour codes with due diligence.
- Ensure speedy completion of investigation into industrial accidents.
- Promote social dialogue and coordination efforts. Trade unions play a very important role at this time, in leading community-based responses and action. There is a need to send and collect information to/from workers, raise workers' awareness on the existing mechanism where they can report harassment, and to push authorities so that their demands are met.
- Introduce more women in decision-making bodies on labour codes.

APPENDIX I: KEY LEGISLATION (relating to safety, health and working conditions in India)

- **Factories Act (1948):** The main objectives of the Indian Factories Act, 1948 are to regulate the working conditions in factories, to regulate health, safety welfare, and annual leave and enact special provision in respect of young persons, women and children who work in the factories. It classifies manufacturing enterprises employing at least 10 workers and where production is carried out using electricity, as a factory. (If the enterprise does not use electricity, it has to employ at least 20 workers to be recognised as a factory.) The Act deals with various problems concerning safety, health, efficiency and well-being of the persons at work places. The Factories (Amendment) Bill 2014 increases this limit to 20 and 40 workers.
- **Building and Other Construction Workers Act (1996):** The Act regulates the employment and conditions of service of building and other construction workers and provides for their safety, health and welfare measures, including fixing hours for normal working day, weekly paid rest day, wages for over time, provision of basic welfare: amenities like drinking water, latrines and urinals, creches, first aid, canteens, etc., and temporary local accommodation for the building workers. It should also ensure the application of the Workmen's Compensation Act to construction workers.
- **Contract Labour Act (1970):** It regulates the employment of contract labour in certain establishments and provides for its abolition in certain circumstances and for matters. The Central Government has issued a number of notifications prohibiting employment of Contract Labour in different categories of works, job and process as in mines, Food Corporation of India's godowns, port trusts and many other industries/ establishments. It applies to all establishments and contractors employing 20 or more contract labourers.
- **Mines Act (1952):** The Act regulates and seeks to protect mine workers from accidents. It defines mining as an activity whereby minerals are extracted for the purpose of commercial use or sale of it. It also stipulates the duties of owners/managers of mining operations, of inspectors and special officers to survey and measure the safety levels, also mandating that workers be transported and examined for occupational health surveys.
- **The Beedi and Cigar Workers (Conditions of Employment) Act (1966):** An Act to provide for the welfare of the workers in beedi and cigar establishments and to regulate the conditions of their work and formatters connected therewith. Mandating licenses and inspection of premises of work, it also makes stipulations for drinking water, latrines, cleanliness and ventilation, measures in case of dust and overcrowding.
- **Shops and Commercial Establishments Act (1958):** This Act provides for the regulation of conditions of work and employment in Shops and commercial establishments, defining the scope of such concepts as 'commercial establishment', 'retail trade or business', 'closed', 'closing hours', 'working hours', 'registration certificate', 'wages' in the sector, and laying down specific rules and exceptions to these rules for certain establishments.
- **The Dock Workers (Safety, Health & Welfare) Act (1986):** This Act is instrumental in ensuring docks meet safety standards and regulations for workers to work in them. It accords powers to inspectors to stop work at any place within dock where it appears that conditions are dangerous to the life and safety of Dock Workers, until measures have been taken to remove the cause of the danger.
- **The Plantation Labour Act (1951):** An Act to provide for the welfare of labour and to regulate the conditions of work in tea, coffee, rubber and cinchona plantations and others. It forbids plantation owners or contractors to employ minors less than 15 years of age. The legislation also mandates the availability of drinking water, latrines, urinals and medical facilities in the vicinity.

- **Working Journalists Act (1955):** An Act to provide for the fixation of rates of wages in respect of working journalists. It empowers the government to constitute the Wage Boards from time to time for revising the wages of the journalists and other newspapers employees. The latest amendment stipulates that journalists cannot be made to work more than 144 hours in four weeks.
- **Motor Transport Workers Act (1961):** It is a legislative measure for motor transport workers which would cover matters like medical facilities, welfare facilities, hours of work spread-over, rest periods, overtime, annual leave with pay, etc., on the analogy of similar enactments for workers in factories, mines and plantations.
- **Cine-Workers and Cinema Theatre Workers Act (Regulation of Employment) Act (1989):** It extends the definition of cine-workers to include anyone involved in the production of a feature film (skilled, unskilled, manual, supervisory, technical, artistic or otherwise); sets up tribunals and codes to hear complaints from cine-workers and theatre workers; regulates the terms of the Employees' Provident Funds and Miscellaneous Provisions Act for the same.

APPENDIX II: ILO CONVENTIONS AND RECOMMENDATIONS

In 2019, ILO released some recommendations on safe and healthy working conditions at the workplace, containing globally applicable standards of OSH like Convention 155 on Occupational Safety and Health, Convention 149 for Nursing Personnel, Home Work Convention 177 for home-based workers, Convention 189 for Domestic Workers, Convention 190 on Violence and Harassment, and Recommendation 205 on Employment and Decent Work for Peace and Resilience.

- **ILO Convention 155** provides for the adoption of a coherent national occupational safety and health policy, as well as action to be taken by governments and within enterprises to promote occupational safety and health and to improve working conditions.
- **ILO Convention 122** seeks to ensure there is work for all who are available for and seeking work; such work is as productive as possible; there is freedom of choice of employment and the fullest possible opportunity for each worker to qualify for, and to use their skills and endowments in, a job for which he is well suited, irrespective of race, colour, sex, religion, political opinion, national extraction or social origin.
- **ILO Convention 111** recognises any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation. It undertakes to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof.
- **ILO Convention 189** lays down measures to ensure that domestic workers, like workers generally, enjoy fair terms of employment as well as decent working conditions such as a minimum wage, accommodation, occupational health and safety, and recourse in case of discrimination or child labour.
- **ILO Convention 190** defines violence and harassment at the workplace as sexual, verbal, physical, psychological and causing economic harm; broadens the scope beyond contractual employers to all “persons in the world of work,” lays down remedies and principles for employers and organisations to address these concerns.
- **ILO Recommendation 205** recognises that full, productive, freely chosen employment and decent work are vital to promoting peace, preventing crisis situations arising from conflicts and disasters, thus enabling recovery and building resilience.