

The COVID-19 Pandemic and the Crisis of Social Protection

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1. Introduction

Unimaginable sufferings during the COVID-19 pandemic strongly exposed the weakness of social protection systems and vulnerabilities of workers, especially the inter-state and intra-state migrant workers. It emerged as a multidimensional crisis of social protection for workers. They were in no way capable of taking protective measures to save them from the novel coronavirus, and the conditions were such that hunger emerged as a more pressing problem than the virus. Lockdowns were imposed on 22 March 2020 when COVID-19 cases reached 500, and thereafter continuously extended as cases started skyrocketing. The payment day is between 7th to 10th of every month for workers receiving monthly payments, and therefore they had little money left when lockdown was imposed. It was difficult for workers to purchase required quantities of disposable masks, sanitisers, etc. Moreover, it was impossible for them to follow social distancing norms, as most lived in slums or slum-like residential areas with 4–6 people in small rooms without proper ventilation and without attached kitchen and washrooms. People living in these conditions cook in the same room, queue up in the morning for tap water and use common washroom facilities. By the first week of April most were without money and started facing the problems of hunger.

There were great initiatives from government, trade unions, individuals, NGOs and other social and religious organisations to provide food; however, this all proved insufficient. There was no hope of returning to normalcy soon, and hence no hope of any income soon, so it was not possible to survive there. Therefore, to avoid facing hunger and sickness at a place where they were left alone, the workers began long marches back home to be with their family and their society which may give them strength and support for survival. The transports were suspended during initial lockdowns, and when started, were insufficient. Even when Shramik trains for migrant workers started, getting a seat remained a nightmare (Chakravarty 2020). In these situations, a large number of workers had no other choice but to start the long march back home. Marching on highways or railway tracks in hot summer, many with families, some with children and pregnant women, surviving on biscuits and some snacks, struggling to get drinking water, they faced unimaginable hardships. Moreover, they faced unimaginable harassment by police and other administrative machinery, as if they were lesser citizens or not citizens. Some had to walk for less than 100 km (mostly intra-state migrants), while others had to walk a few hundred to more than 1,000 km (inter-state migrants). On their way back home, more than 100 migrant workers were killed in accidents, while hundreds of others were seriously injured (Khan 2020).

Lockdown was imposed suddenly without giving time for preparations, and workplaces closed down without payment of wages.

Now the lockdown has been gradually ending and the economic activities gradually beginning again; however, there is still no hope of normalcy returning soon. The pandemic and lockdown has affected the livelihoods of more than 40 million migrant workers (PTI, 23 April 2020). There is a wave of layoffs and closures in industries and for large numbers of wages-salaried workers there is no hope for getting the jobs back. The

self-employed and own-account workers face a similar crisis. It is to be emphasised that the COVID-19 pandemic is a double crisis for workers: a health crisis that increased expenses and a livelihood crisis that ended incomes. Moreover, the COVID-19 pandemic has been accompanied with other crises which further aggravated the livelihood crisis.

In May, Cyclone Amphan caused extensive devastation in large areas of West Bengal and Odisha, and in June Cyclone Nisarga devastated many areas in Maharashtra. In July, heavy rains and floods submerged thousands of villages and many urban and semi-urban areas mainly in states of Assam, Bihar and Jharkhand, and also affecting some other states. From May to July there has been recurrent locust attacks, 43 districts of five states have been severely affected, including 23 districts of Rajasthan, 16 of Madhya Pradesh, two in Gujarat, one each in Punjab and Uttar Pradesh, and thousands of acres of crops were nearly completely destroyed.

The cumulative impact of the pandemic and other crises has affected the income cycle of the working population in such a way that it will take at least a few years for them to recover. In this background it becomes urgent to rearticulate the needs of social protection of the working classes in light of the current crisis, critically analyse and point out the weaknesses and inefficiencies of existing social protection systems and propose alternative strategies. This is the objective of this research.

The present study attempts to understand and rearticulate the crisis of social protection in light of problems faced by workers during the COVID-19 pandemic, and tries to point out the shortcomings of the existing social protection systems in terms of their inability to address this crisis. On the basis of this understanding, the study proposes alternative policy measures and implementation strategies to effectively address the crisis of social protection. The research is specially focused on the construction and garment sectors.

2. Methodology

The study is based on both primary and secondary sources. There was no scope of conducting extensive surveys during the lockdown. Hence, a limited number of interviews (based on a semi-structured qualitative questionnaire) were conducted with workers and trade unions/organisations. A total of 20 garment workers and 15 construction workers in NCR Region were interviewed, including face-to-face interviews with only five garment workers and three construction workers who were primary contacts, and telephone interviews with the rest of the workers. Four organisations were interviewed on the telephone, including one trade union working with garment workers: Vastra Silai Udyog Kamgar Union, Noida, and three organisations working with construction workers in different regions of the country, including Bandhakam Mazdoor Sangathan in Ahmedabad, Gujarat; Vigyan Foundation, Lucknow, Uttar Pradesh; and Odisha Chas Parivesh Surakshya Parishad, Dhenkanal, Odisha. Out of the three construction workers' organisations, the first one works with migrants at destination, second one works in a city that is both a destination for intra-state migrants as well as a midpoint for inter-state migrants from the state, and third one works with migrants at a point of origin. The interviews were conducted in July–August 2020. The secondary sources of data include the published reports of the government, trade unions, NGOs and newspapers. A Zoom meeting was organised in September with participation of three organisation including Center for Workers Education, New Delhi, Bandhakam Mazdoor Sangathan, Gujarat and Odisha Chas Parivesh Sangathan, Odisha, to discuss and give the final shape to the recommendations: the nature of initiatives needed to strengthen the social protection system.

3. Politico-Economic Background of the Crisis of Social Protection

There are some important politico-economic factors to keep in mind in order to properly understand and articulate the crisis of social protection in India during the COVID-19 pandemic. **First**, from 2009–10 onwards there is a consistent structural shift of the workforce from rural to urban sectors, largely a distress migration rather than attracted by any significant employment growth in urban sectors. This has hence resulted in overcrowding of certain urban informal sectors in terms redistribution of existing employment and declining incomes of workers (Kerswell and Pratap 2018).

In India, now the marginal holdings in agriculture constitute as much as 67% of operational holdings and average size of these holdings is reduced to 0.38 hectare. If we add small holdings (1–2 ha) then they together account for as much as 85% of all operational holdings. With capitalist development, especially with drastically increasing input costs, these holdings have largely become unsustainable and cannot survive even the small shocks. Agriculture was almost continuously impacted by droughts from 2000 onwards. Droughts during 2000–03 impacted about one-third of India and led to an upsurge in temporary rural to urban migration; however, with improvement in rainfall in subsequent years they returned back. But before they were able to recover from this crisis, there was a more severe drought in 2009 which affected nearly half of the country, and before they were able to recover from this, there was an even more severe drought in 2012 with more geographical spread. Along with cultivation allied sectors like household dairying, etc. were also severely affected. It was in this background that there was a structural shift of workforce from rural to urban sectors from 2009–10 onwards. There was an absolute decline in the agriculture workforce (including allied sectors) from 244.9 million in 2009–2010 to 231.9 million in 2011–2012, i.e., 13 million workers shifted from agriculture to urban sectors within 1–2 years (Kerswell and Pratap 2018).

From 2009–10 to 2017–18, 39.6 million workers shifted from rural to urban sectors, while there was no significant employment growth in urban sectors. This led to redistribution of existing employment among a larger workforce resulting in overcrowding of informal sectors and decline in wages and incomes.

The same trend has been continuing in recent years. The country experienced widespread droughts every year from 2015, except 2017. In 2019 about 42% of land area was affected by droughts, and Andhra Pradesh, Bihar, Gujarat, Jharkhand, Karnataka, Maharashtra, part of North East, Rajasthan, TN and Telangana were worst hit; these states together account for nearly 40% of the country's population (Gogoi and Tripathy 2019). Along with other factors, these droughts played an important role in accelerating the structural shift of the workforce, which was reflected in a drastic decrease in the agriculture workforce from 231.9 million in 2011–12 to 205.3 million in 2017–18, i.e., a shift of 26.6 million workers from agriculture to urban sectors (Mehrotra 2019). In this way, from 2009–10 to 2017–18, 39.6 million workers shifted from agriculture to urban sectors. On the other hand, there was no significant growth in urban employment during this period. Of the major employment-generating non-agricultural sectors, five accounted for 74% of total additional employment generated between 1999–2000 and 2011–2012, including construction (37.1%), trade (10.5%), transport and communication (9.96%), textiles and apparel (9.73%) and education (6.6%). Together, these sectors constituted more than 62% of total employment in non-agriculture sectors in 2011–2012 (Kerswell and Pratap 2018). Manufacturing in total added only 17 million employments during this period, in which textile and apparel and furniture were the only significant contributors (together 12.2 million). All the major sectors that accounted for high growth in employment, construction, trade, transport, garments and furniture are dominated by informal sectors and an informalised workforce in formal sectors. It appears that the growth in workforce in these sectors does not reflect any real employment growth; rather, it may be more in terms of overcrowding within existing employment; for example, increase in numbers of street vendors even when no significant increase in consumer base, overcrowding of manual and auto ricksha drivers, etc., and redistribution of same amount of annual work among larger numbers of workers leading to decline in annual days of employment per worker, etc., for example in case of construction and garment workers (Kerswell and Pratap 2018).

Such overcrowding may have two implications: i) redistribution of existing work/incomes among larger workforce and thereby declining annual earnings for workers; and ii) declining bargaining power of workers leading to decline in wage rates. The impact of this was reflected in the declining real wages and incomes of workers (ILO 2013:23; Kerswell and Pratap 2018; UNCTAD 2012). This trend largely continued or became even worse in the next phase from 2011–12 to 2017–18. However, unlike the previous period, the manufacturing recorded a negative employment growth from 2011–12 to 2017–18 and the manufacturing workforce declined from 59.8 million to 56.4 million during this period (Mehrotra 2019). Similar to the previous period, the

construction (growth rate slowed but continued) and services like trade, hotel and restaurants, transport and communication recorded higher growth in workforce (ibid.). Therefore, the workforce shifting from agriculture was largely absorbed in the informal sectors like construction, trade, transport, etc., with the same overcrowding impact, and same implications of declining wages and incomes. In total the wage growth rate between 2004–05 and 2011–12 to 2011–12 and 2017–18 declined from 5.52% to 1.05%; for casual workers it declined from 7.75% to 2.26% and for regular salaried workers it recorded a negative growth rate and declined from 3.91% to -1.76% (Srivastava and Padhi 2020). The decline in wage growth rate was reflected across the sectors and industries. In construction, the wage growth rate of casual workers declined from 5.45% to 1.68%, and for regular salaried workers it declined from 4.8% to 1.86% (ibid.). During the same period, in manufacturing, wages for regular salaried workers recorded a negative growth rate and declined from 3.78% to -1.27%, and for casual workers it declined from 4.35% to 3.98% (ibid.). The data clearly shows a negative wage growth for regular salaried workers across the sectors and industries (ibid.). Along with other factors, overcrowding of the workforce may have played a major role in drastically reducing the bargaining power of workers and putting a downward pressure on wages in general. ILO's Global Wage Report 2019 fails to capture this dynamic and declares that 'workers in Asia and the Pacific have enjoyed the highest real wage growth among all regions over the period 2006–17, with countries such as China, India, Thailand and Viet Nam leading the way' (ILO 2019:9).

Second, an increasing proportion of workers moved out of the social security net due to a shift of activities from formal to informal sectors and informalisation of workforce in formal sectors. From 2011–12 to 2017–18, in the urban economy, the number of workers in the formal sector decreased from 83.3 million to 76.7 million, and the number of workers in the informal sector increased from 159 to 181 million (Mehrotra 2019). The formal sector workforce in manufacturing declined from 20.7 to 18.1 million, in non-manufacturing (construction, mining) declined from 22.3 to 15.4 million; however, in services it increased from 40.3 to 43.2 million, largely in IT services, shopping malls, communication and financial services (ibid.). At the same time, the informal sector workforce increased in non-manufacturing from 32.9 to 43.5 million and in services from 87 to 101.3 million; however, it recorded a little decline in manufacturing from 39.1 to 38.4 million (ibid.). In total, the proportion of formal sector workforce declined from 34.4% to 29.5% and informal sector workforce increased from 65.6% to 70.5%. Currently the formal sector workforce constitutes only 32% in manufacturing, 26.2% in non-manufacturing and 29.9% in services (ibid.). But this is not all. Informalisation of the workforce in formal sectors has thrown many more out of the social security net. Among the total non-agriculture workforce (259.8 million) including both formal and informal sectors, the formal workers are only 42.8 million (16.5%); in manufacturing 8.7 million (15.4%), in non-manufacturing only 3.1 million (5.2%) and in services only 31.1 million (21.5%) (ibid.). This is still not all. Even among the formal workers, not all are getting social security benefits. Among regular wage/salaried employees in the non-agriculture sector (including both formal and informal sectors), 71.1% do not get formal job contracts; 54.2% do not get paid leaves and 49.6% do not get any social security benefits (GOI 2019). This implies that significant proportions of formal workers are also denied social security benefits.

Third, the unequal development has led to emergence of a divide between rural and urban areas as well as a broader divide between two distinct types of states: labour receiving states and labour supplying states. This dynamic leads to large-scale inter-state and intra-state migrations. No comprehensive data on internal migration is available in India, however, according to one authentic estimate based on Census 2011 and National Sample Survey reports, the percentage of migrant workers in urban workforce increased from 32% in 2011–12 to 51% in 2017–18 (Srivastava 2020). The long-term circular migrants increased from 45 million in 2011–12 to 67 million in 2017–18 (ibid.). Total migrant workers including long-term and short-term circular migrants increased from 85 million in 2011–12 to 111 million in 2017–18 (ibid.). In the construction industry alone the number of migrant workers increased from 24.9 million in 2011 to 26.4 million in 2017–18 (ibid.). Out of them, about 50%–60% were short-term circular migrants including inter-state and intra-state migrants, about 30%–40% were commuting or non-migrants and 10% were long-term migrants (ibid.). However, this data still largely appears an underestimation, keeping in mind the huge shift of workforce from agriculture to urban sectors from 2009–10 to 2017–18. Consistent data on inter-state migration is available in Census 2011 and according to this data among the major labour supplying states, state of Uttar Pradesh ranks at the top as the origin of inter-state migrants (22.7%), followed by Bihar (13.74%), Rajasthan (6.92%), Maharashtra (5.65%), Madhya Pradesh

(5.49%), Karnataka (4.61%), West Bengal (4.43%) and Haryana (4.27%). Odisha, Chhattisgarh and Jharkhand have less share in total inter-state migrants, but proportion of their population moving out in other states may be very high. Among the labour receiving states, Maharashtra, Gujarat, NCR-Delhi, Karnataka, Kerala and Punjab emerge as the major destinations of the inter-state migrant workforce (ibid.). It is in this background that we can understand the crisis created by the COVID-19 pandemic and the lockdown, when inter-state migrant workers wanted to return back home. From Maharashtra, Gujarat, NCR-Delhi, Karnataka, Kerala and Punjab, at least 4–6 million people wanted to return to Uttar Pradesh, 1.8–2.8 million to Bihar, 1 million each to Rajasthan and Madhya Pradesh, apart from large numbers to Jharkhand and Chhattisgarh, etc. (Singh 2020).

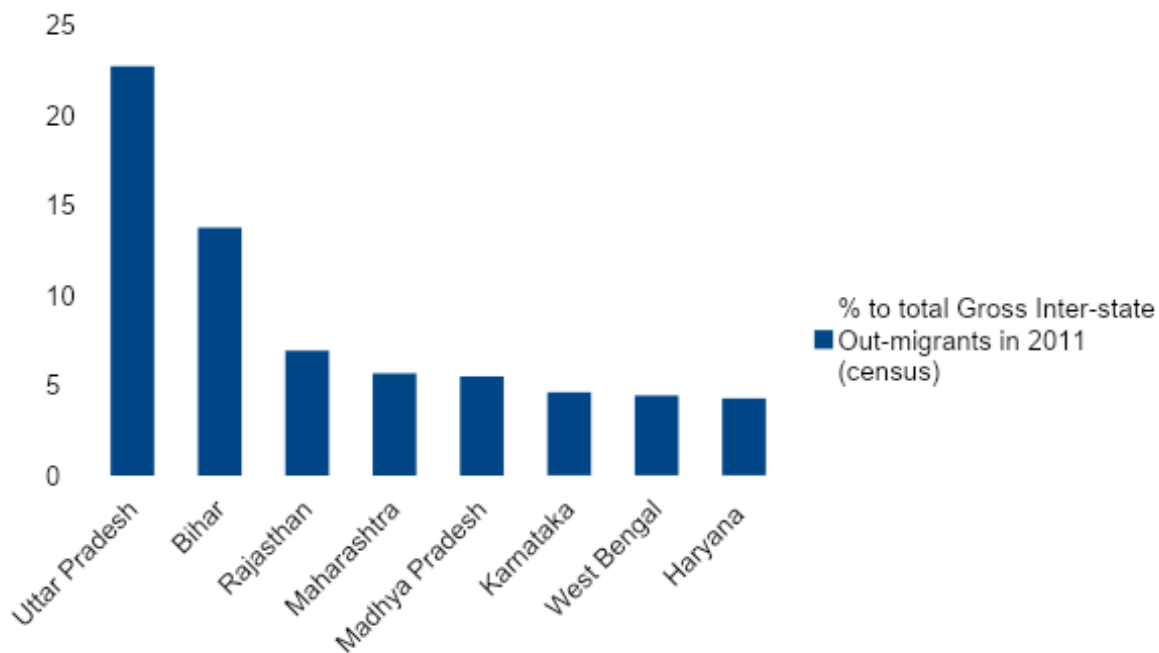


Figure 1: Percentage share of major labour supplying states in total inter-state out-migrants in India (2011)

4. Nature of Crisis and Lack/Inefficiency of Social Protection Systems in Special Context of Construction and Garment Workers

The issues raised by the workers interviewed can be listed in six major categories: i) lack of organisation; ii) lack of any savings to face the emergency situations; iii) housing-related problems; iv) no access to health services; v) violation of human rights; and vi) long-term crisis. Let us discuss the concerns raised by the workers in each of the above listed categories of issues, and critically articulate the problems of the existing social protection system and why it was unable to address the crisis faced by the workers.

4.1 Lack of Organisation

Lack of any organisation was cited by both construction and garment workers as the most pressing problem. According to them, they probably for the first time in their life felt the need for an organisation. During the lockdown they felt completely helpless; they were at a loss about what to do and who to contact. At each step from the time when lockdown was imposed, they faced problems, e.g., they were angry and felt cheated when they were not informed well before the factory works/construction works were stopped, and that too without the payment of their dues; those living at the worksites were asked to evacuate without any alternative arrangement or without any arrangement to send them back home; no one was there to support them. When they had no money for survival, many times without food, and facing harassment from landlords for not paying rents, no one was there to support them. When Shramik special trains or buses for transporting migrant workers

started they were not able to get their tickets booked and there was no one to help them. When they were marching back home, they were repeatedly harassed and there was no one to raise the voice against such harassment. When they were not able to get benefits of the welfare policies announced by the government during the lockdown period, they got frustrated and were at a loss about what to do and who to approach for help. They heard from their friends and also read in newspapers that wherever the workers had formed their unions, they were able to mobilise support and extend help to members in need. It was within this context that they articulated the lack of organisation as the most pressing problem. They felt that if they had their own organisation, then they likely would not have faced such pains and harassments. However, they said that forming the organisation is not easy, the workers are generally competing for jobs and concerned with work and earnings and do not think about organising themselves; as well, the employers become furious when they hear any assertive voice from workers. In these situations, no worker dares to take the initiative. Their accounts clearly reflected that even when not directly linked, the right to organise and collectively bargain emerges as an important aspect of social protection.

Probably for the first time, workers felt intensely that the lack of organisation was the most pressing problem, and that if there was an organisation of their own they may not have suffered this much.

The narratives from the workers reflect on two factors that are very important for both garment and construction industry, i.e., overcrowding of workforce and strong anti-union attitude of employers. However there are two more factors that inhibit unionisation of workers: i) exceptionally high level of informalisation and casualisation of workforce in garment and construction industry and lack of any job security make them highly vulnerable; and ii) the amendments in Trade Unions Act in 2001 enhanced the minimum membership for registration of trade union from seven members to 100 members, or 10% of workforce, which made unionisation very difficult; further amendments in certain states made it further difficult, for example, the amended law in state of Rajasthan raised the membership requirement to 30% (GOI 2020:33) making the formation of union next to impossible. Due to higher requirement of membership for registration of union, the process of formation of union takes an exceptionally longer time and the employers become aware of the ongoing process and start foiling the attempts of unionisation by threatening workers, firing leaders and pressuring the labour department to not register the union.

Trade union density in India across the total workforce (including agriculture and non-agriculture, self-employed and wage workers) stood at 10.7% in 2011–12; for non-agriculture workers it is about 17.7%; for self-employed about 8%; for wage workers (including informal and formal, casual and regular workers) it stands at 13.4%; for regular salaried workers (including formal and informal sectors) the union density is highest at 28.8% (ILO 2018:66). This reflects the fact that the degree of protection extended by labour laws directly translates into union density. If we calculate the union density only for formal workers in formal sectors it may certainly be far higher.

There are rarely any shop floor trade unions (factory-level or project-level) in the garment and construction industry in India, precisely due to above problems. However, precisely due to inability to unionise at factory-project level, unionisation attempts are largely focused on organising the industry unions, i.e., general unions of garment workers or construction workers working in certain districts or industrial areas. Most such unions actually do not reflect any union dynamics; they appear more as advocacy and legal support centres, except few, particularly in garments, which have been able to develop a certain level of union dynamic in terms of building workers committees at factory level and attempts at pressure bargaining by organising collective protests. In construction sector, almost all unions appear more as advocacy and legal support centres, mainly facilitating the workers' enrollment in welfare board for construction workers and helping them in getting benefits from the board; it is in this way that they get their membership base, which is always changing as the majority of workers keep moving from project to project and also from one region to another. Ironically, the workers interviewed were not aware of the existence of any unions working with garment or construction workers in their region; however, the researcher knew that some unions were working there in both sectors.

The trade unions/organisations interviewed cited the following problems for lack of unionisations: i) lack of awareness on rights; ii) more worried about their day-to-day struggle for survival and no interest and also no space for engaging in union activities; iii) lack of job security and fear of losing job, i.e., always facing a survival crisis; iv) no stable workforce, more so in case of construction workers. This also applies to garment workers, however, as due to frequent hiring and firing they keep on shifting one factory to other. However, largely they remain stable in particular industrial area; v) anti-union attitude of employers, as well as government and whole administrative machinery; and vi) with weak membership base and anti-union attitude of employers and state machinery, the unions are not able to offer any great protection to workers, and hence, workers do not see any great benefits in joining the unions.

4.2 Working Poor Have No Savings, Cannot Survive Without Work for Even a Month

In our sample all workers were migrants from Bihar and Uttar Pradesh. Among garment workers, 50% were from Uttar Pradesh and 50% were from Bihar; among construction workers, 70% were from Bihar and 30% were from Uttar Pradesh. All garment workers went back home at the end of April or first week of May, and all returned back in July. At the time of interview 50% of them were already working and the rest were searching for a job. Among the construction workers, only 70% went back in the first week of May; the remaining 30% were able to survive here, as they were skilled workers working and living here for 20–25 years and were able to have their own accommodations in slums or slum-like other localities and hence had no pressure to pay rents.

The garment workers were all skilled workers and represented two categories: piece-rate workers (25%) and salaried workers (75%). The piece-rate workers reported to be completely informal workers, and while legally required, they have no formal employment relationship and are not covered in any social security schemes (Employees State Insurance, Provident Fund and gratuity) and not provided any paid leaves. They are paid two times in a month: first advance payment and then final payment on salary day (7th–10th of every month). The salaried workers reported to be regular workers, however none of them got a formal employment letter, and only 50% of them reported to have a company ID card, salary slip and benefits of paid leaves. They are paid a monthly salary on 7th–10th of every month. Most importantly, they also reported to have no job security; they are fired at the whims of management without following any legal procedures, the management compels them to sign resignation letters to avoid paying notice pay and retrenchment compensation, and rarely any factory pays the legal dues like leave encashment and bonus, etc. in full and final payments. On average, annual income of piece-rate and salaried workers are almost the same (per day earnings of piece-rate workers are more, but in some months, they get very less or no work). On average they earn statutory minimum wage (INR 8,625–10,000) plus overtime at a single hourly rate of wages, total ranging about INR 10,000–12,000 per month. Generally, both categories of workers work overtime for 3–4 hours daily but are never paid a premium rate of wages for overtime. Living conditions of all workers are more or less the same, and they never have any savings; those who live alone send money orders back home for survival of family and similarly those living with family are also left with no money at the end of the month.

No job security, hire and fire without following legal procedures, low wages, no savings, and lockdown without payment of due wages created a survival crisis.

About 25% of workers reported to have not received their next payment for the days worked in the month before lockdown was imposed on 22 March. However, the rest reported that the next payment for the days worked was duly transferred into their bank accounts. Only 20% of workers reported to have received full wages as of March (including wages for eight days of lockdown from 22 March), and 50% of salary for the lockdown period in April, but nothing thereafter. The rest of the workers did not receive any wages for the lockdown period. Therefore, the majority of workers were left with no money by the end of the first week of April.

According to Mr RS Rajbhar, an office bearer of Vastra Silai Udyog Kamgar Union, most of the garment factories paid the workers for the days worked in March, except a few and mostly those practicing the payment

by cash or check and not by bank transfers. However, only about 30%–40% factories paid some token amounts INR 4,000–5,000 for the lockdown period of April, which may amount to 50% of wages for the month. But thereafter no payments were made by any factories for the lockdown period. This was because initially the government issued the order for payment of full wages to the workers during the lockdown period, however, the order was challenged by the employers and soon the government had withdrawn its order.

Construction workers represented two categories of workers: skilled and unskilled. They worked in groups with one to two skilled workers in each group and the rest unskilled workers. These groups take the construction assignments collectively, mostly painting, flooring and tiling works. However, they do not take contracts of any work/project, they all work for wages. They are engaged by contractors in case of larger projects and directly by employers in case of work in homes. The wages of skilled workers were INR 500 or little more per day (depending on bargaining with employer) and that of unskilled workers was about INR 400 per day. They all were informal workers, and worked without any formal contracts with employers. None of them reported to be registered with construction workers' welfare boards. They do not get continuous work and always face intermittent periods of unemployment. When they are at work, they earn more than minimum wages per day, but due to intermittent periods of unemployment, on the basis of annual average earnings, their monthly average earnings are not more than the minimum wages. The construction workers reported that their 2–3 days wages for days worked was pending and not paid during the lockdown. There was no question of any payment to them for the lockdown period, as they were informal workers and engaged on daily wages.

Up to the 10 April, the majority of both construction and garment workers had very little or no money left. In these situations, none of the workers were in a position to pay rents, and none had enough money for survival. None of them were able to send money orders back home; and hence the crisis was extended to the families staying back home. Almost all workers were compelled to get small loans from friends or the contractors for survival. The workers accompanied with families faced more serious problems. One garment worker reported that his wife was pregnant and so he did not dare to march back home, but with not enough money for survival and not able to get loans from friends or factory, he was compelled to request his father staying back home to arrange some money for him. Another garment worker staying with family was also compelled to request his father for money and with great difficulty his father finally sent him money.

Both garment and construction workers reported that they were either landless or near landless and therefore did not have any resources for survival other than wage labour. In their home districts they all have their own homes so they do not have to pay rents, and moreover, they can get survival loans more easily there as they are part of that society and people know them and their family for generations. And most importantly, once they were with their families, they felt psychologically stronger and safe. However, whether they went back home or remained in the cities, for their survival, they had to largely depend on support from governments or charities from social organisations providing food or ration kits, and on loans, as they did not have any savings.

All garment workers reported that they had to take loans from friends or relatives in the cities where they were working, ranging from INR 500 to INR 5,000. The workers belonging to the state of Uttar Pradesh were the first to leave the cities at the end of April, largely walking back home, as their home districts were within the range of 50–200 km. The workers belonging to Bihar moved later in the first week of May. They successfully tried to get accommodated in some trucks going near their home district by paying 2,000–4,000 each; however, they also had to walk for 15–50 km to reach home from the place where these trucks dropped them off. When they were coming back in July, they had to take loans in their home districts ranging from 5,000–20,000 in order to meet travel expenses, take rented accommodation in destination cities, have money for their survival before they earned some wages, and to leave some money back home for family's survival.

The construction workers also reported that they had to take loans ranging from 1,000–5,000 largely from the skilled workers in their groups. They all moved in May; therefore they were able to get accommodated in some trucks carrying goods by paying 500–2,000 each to reach near their home districts and then walk 10–50 km to reach their homes. They also have taken loans in their home districts ranging from 5,000–10,000 each for the same reasons as mentioned in the context of garment workers. In return journey, they also had to spend

2,000–3,000 in transport, which in normal times cost only 200–400. This is because even when lockdown had been relaxed, transport is not yet normalised.

All this clearly reflects the fact that the wages of workers are so low that it hardly suffices for their survival needs, and at the end of the month they are left without any savings. They cannot survive even for a month without wage work. Their families depend on their money orders for their survival and hence, any such crisis means hunger for them as well as families back home. Resultant impact of any such crisis necessarily throws them into a debt trap. The media reports also highlighted that the lockdown is throwing the workers into a debt trap (Bhatnagar 2020; Kumar and Rakesh 2020; Pattnaik 2020).

4.3 Housing Problems

All garment workers and 70% of construction workers lived in rented accommodations; in general, 3–5 people share a very small room, cook food in the same room, and queue for water and washroom facilities that are shared by 4–5 rooms. Room rent generally ranges between INR 2,500 and 4,000 per month including the electricity and water charges, and precisely to reduce the burden of rent, 3–5 workers share the room. This means per head rent is about INR 700–1,000 per month. When lockdown was imposed they had already paid the rents for March, but the problem started in April when they were unable to pay the rents. Government requested the landlords to not compel the renters to pay rents during the lockdown period but it did not suspend the electricity and water bill which landlords were compelled to pay continuously. Most of the landlords followed the directive for the month of April, but most were not ready to follow the same thereafter. It was in this background that it became impossible for workers living in rented accommodations to survive there, and there was also total uncertainty about when they may again be in a position to earn.

It was not possible to follow social distancing as 3–5 workers shared a small room and 20–25 workers shared a washroom and tap water facility. With no incomes, they were not able to pay rents and not able to survive, and hence were compelled to leave cities.

According to Vipul Pandya of Bandhakam Mazdoor Sangathan (a construction workers union), there are two categories of construction workers: one who stayed in the city almost over the year, lived in rented accommodations and engaged in various projects with intermittent periods of unemployment; and those who came to work on certain projects for specific periods and lived at the project sites. The second category of workers generally forms the majority of the construction workforce, and it was they who immediately entered into a vulnerable situation after the lockdown was imposed. They were asked to vacate the project sites. In absence of any other alternatives and also absence of any transport to go back home, they immediately came on the road and started marching back home. Most of these workers may have received their due wages, but a significant section may not have got their due wages, as the contractors simply disappeared or conveyed their inability to arrange money in such a short notice.

4.4 Lack of Health Services

After the lockdown was imposed, Out-Patient Department (OPD) services in most hospitals were stopped. ESI hospitals were converted into dedicated COVID-19 hospitals and hence their OPDs also stopped. Insured workers were advised to avail all services from tie-up hospitals, but it was not clear at that time whether and which tie-up hospitals were running OPDs. According to one garment worker, his wife was pregnant and this is why he did not go back home: regular check-ups of his wife was going on in ESI hospital in Noida; however, after the lockdown was imposed, she could not go for regular check-ups as OPDs of nearby hospitals were also stopped. The problem faced by workers was three-fold: i) in a situation of 4–5 workers living and

cooking food in one small room, and 20–30 workers queuing for washrooms and water facilities, it was impossible to maintain required distance to avoid COVID-19 infections; ii) they were not in a position to afford disposable masks for protection against COVID-19 infections; and iii) public transport was not available, so they were unable to go in search of hospitals running their OPDs, and hence had virtually no access to any health services.

Access to health services was disrupted across the country. ‘A range of hundreds of indicators shows a worrying disruption in India’s basic health services in March as local administrations focused on containing the spread of COVID-19. These include curtailed immunisation schedules, restricted in-patient, out-patient and emergency treatments for infectious and non-communicable diseases, reduced laboratory investigations, and lowered access to mental health treatment. Hundreds of thousands of children might already have missed vital immunizations...Thousands of adults may have missed potentially life-saving medical treatment...’ (Rukmini 2020). Many sex workers who were HIV-positive were left without any access to antiretroviral therapy (ART) medicine (Sayeed (2020).

Thousands of workers walked 50 to more than 1,000 km to reach back home; many women delivered babies on the road; about 100 died on the way; hundreds of thousands of children may already have missed vital immunisations; thousands of adults may have missed potentially life-saving medical treatment; many HIV-positive were left without any access to antiretroviral therapy (ART) medicine.

There were several instances during lockdown when women were forced to deliver children on the road during their march back home. A migrant worker walking back from Nashik in Maharashtra to her village Satna in Madhya Pradesh was forced to give birth on the roadside, and just two hours after her delivery, she had to again start marching towards her destination. Only after walking 150 km was she able to receive help from state government administration. A similar incident happened in Lalitpur, when a woman migrant was forced to give birth under a roadside tree after having covered a distance of 500 km on foot. Another pregnant migrant woman who was marching with her family from the Sangareddy district in Telangana to her native village Rajnandgaon in Chhattisgarh was forced to deliver her child on the road. Yet another migrant woman marching from Chandigarh to Madhya Pradesh, after already covered 180 km, gave birth to a child on the roadside, and after a few hours had to start marching again with a newborn child to cover more than 1,000 km to reach her home (Hindustan, 12 May 2020; India.com, 13 May 2020; Pandey 2020).

Even after lockdown was a little bit relaxed and hospitals started operating, access to health services remained a challenge, and in their own cities the people were not able to access health services. In Hyderabad, a woman was forced to deliver a baby on the street as she could not reach a hospital and could not get an ambulance in time due to lockdown (TOI, 7 April 2020). In an incident on 5 June 2020, a pregnant woman undergoing labour pain was taken by her relatives to seven private and government hospitals including ESI hospital in Noida, however, she was not admitted to any hospital and eventually died the same evening (Jha 2020).

This is also worth emphasising that in the last few decades, particularly after the 1990s, public health infrastructure has gradually deteriorated. While the population increased, there was no significant improvement in access to public health facilities. Even the existing public health infrastructure is paralysed for lack of budget and staff, as is clear from the drastic deficiencies of health staff in public health facilities as given in Table 1.

Table 1: Drastic deficiencies in medical staff in SCs, PHCs and CHCs			Rural Sub Centres without staff
Posts	Shortfalls (against requirement) 2019 (%)	Vacancies (against sanctioned posts) 2019 (%)	9.2% without HW-F/ANM 54.2% without HW-M

			3.8% without both
Rural SCs and PHCs			
HW-F/ANM	3.9	8.9	
HW-M	62.9	35.5	
Health assistant-F	47.9	35.9	
Health assistant-M	59.8	45.8	
Doctors at PHC	6	23.5	
Rural CHCs			
Surgeons	85.6	79.9	Rural PHCs without staff
O&G	75	64	9.6% without doctors
Physicians	87.2	77.5	38.4% without lab technicians
Paediatricians	79.9	69.7	23.9% without pharmacists
Total	81.8	72.5	
Urban SCs and PHCs			
HW-F/ANM	44.3	16.9	
Doctors	16.7	19.1	
Pharmacists	24.3	21.4	
Lab technicians	50.9	29.8	
Staff nurses	22.2	21.7	
Urban CHCs			
Specialist doctors	45.8	36.9	PHC: Primary Health Centre
GDMOs	24.6	24.6	SC: Sub Centre
Radiographers	48	30.2	CHC: Community Health Centre
Pharmacists	16	13	HW: Health Worker
Lab technicians	13.4	17.3	ANM: Auxiliary Nursing Midwifery
Staff nurses	21.3	17.6	GDMO: General Duty Medical Officer
			O&G: Obstetrics & Gynaecology

GOI (2020). Based on Rural Health Statistics, Statistical Division, Ministry of Health and Family Welfare, Government of India.

4.5 Violation of Human Rights of Migrants Marching Back Home

Respecting the human rights of workers is the foundation of social protection. What migrants faced during the lockdown, especially what they faced when compelled by conditions of hunger and uncertainties to started marching back home, was an open violation of their human rights. The state machinery rather than extending its helping hand resorted to harassment and repression of workers in various ways, including:

- i) There was no consultation held at any level before imposition of lockdown and no time was given to the people to prepare themselves for lockdown. The trains started getting cancelled on 18 March, Janta curfew was imposed on 20 March, trains ceased to operate from 21 March and lockdown was imposed from 22 March when suddenly all workers lost their employment and earnings. This was an outright violation of human rights. The migrants should have been given the opportunity to reach back home before the transport was stopped and the lockdown was imposed. Moreover, survival support for the stranded working population and access to health services in each locality should have been planned before imposing the lockdown.
- ii) Within a few days after lockdown large numbers of people came on the road and started marching back home. This reflected that they were in no position to stay in the city and they had no other option but to move towards home in whatever way possible. But rather than recognising this problem the government issued harsher guidelines to block the movement of people by closing state and district borders and compelling the marching migrants back to the city and prosecuting them for violation of the Disaster Management Act. Rather than providing them drinking water and food, and healthcare facilities to injured, sick and pregnant women and arranging the transport for them, police harassed, mistreated and resorted to brutal repressions by lathi-charge, blowing tear gas on them, and many other forms of repressions. However, all attempts to stop them failed. When police blocked the highways, the migrants discovered other routes and started marching on rail tracks; many crossed rivers by swimming, but did not stop their march. Thousands of workers were always visible on highways and railway tracks, marching on foot or hand carts, cycle, auto rickshaws, hiding in containers, cement mixers and goods transporting trucks, etc. (see Srivastava 2020).
- iii) According to the garment workers and construction workers interviewed it took 3–4 days to reach back home even when they were able to travel by trucks and they had to walk for only a small part

of the journey. They had to completely hide themselves in goods loaded in trucks so that the police were not able to discover them. They were hardly able to breathe. They were not able to get drinking water for whole days and they could not get any food for the whole journey, and survived on biscuits and some snacks they carried. It was a horrible journey they had never experienced before in their life. Some of them fell sick but somehow managed to reach back home.

- iv) Only when all attempts failed to stop the migrants did the government finally on 29 April, issue a notification allowing transport of migrant workers back home by buses. However, this was subject to a strict protocol, only with coordination between states of origin and destination, which was again a nightmare, and was not able to provide any effective solution of the problem. Finally on 1 May, the government took a decision to start certain Shramik special trains (special trains for labourers) to transport the migrant workers. Again, the train facility was subject to coordination between origin and destination states and transport of migrant workers was subject to clearing thermal screening and able to pay huge charges for train tickets. Mainly AC trains were started and charges were exceptionally high and beyond the normal capacity of workers. Only a few trains were started and hence it became impossible for thousands of workers to get travel tickets even when they were able to somehow arrange the money to buy tickets. In the meantime, the government on 3 May issues another order for clarifying the earlier order, one which actually restricted the trains for transport to only those migrant workers who came to the destination cities just before the lockdown period, thereby excluding all other migrant workers living and working in cities for longer periods (Srivastava 2020). Many state governments attempted to disallow the migrants to go back home in such a large scale (ibid.); the labour supplying states were concerned with difficulties they may face with such a large-scale return of workers in times of pandemic, and labour receiving states were concerned with severe crisis of labour shortage for employers once lockdowns are relaxed. However, all such attempts failed. On 27 May the government reported to the Supreme Court that 9.1 million migrants had been transported, out of whom 4.1 million had been transported by buses (ibid.). However, in reality the conditions were still not improved; hundreds and thousands were still marching on roads and rail tracks to reach back home. On 28 May the Supreme Court itself noted that there were several lapses in the process of registration of migrant workers for travel, in transportation and in provision of food and water to them. The court directed that the migrant workers found travelling on foot should be immediately taken to shelters and provided with food and all basic facilities; and ordered that no fare for travel by train or bus would be charged from migrant workers for their travel back home, and also directed to provide free meals and water to migrants during their travel; and that all the costs are to be shared by the relevant state governments (Times Now, 28 May 2020).

5. Pandemic Exposed the Hollowness of Existing Social Protection System

The COVID-19 pandemic exposed the hollowness of the existing social protection systems, and it was most powerfully exposed in the fact that the majority of working classes were not in a position to survive even for a month in the face of a livelihood crisis, and were thrown into a debt trap. It is also interesting to note that short-term livelihood crises have been a routine affair of the twenty-first century, e.g., frequent natural calamities like droughts, floods, earthquakes, and other disasters like fire accidents, and economic slowdowns and financial crises, all leading to short-term, medium-term and long-term livelihood crises, for different sections of population. The COVID-19 pandemic is different only in terms of creating a livelihood crisis for all workers at one point in time. However, existing social protection systems do not have any inbuilt mechanism to automatically deal with such crises in any effective way. During the pandemic and lockdown, workers were not automatically able to get support from any relevant provisions in existing social protection systems, and the government had to take extraordinary measures to extend support to workers. Even in cases where the support was provided within the framework of existing social protection systems, the government had to introduce short-term extraordinary

provisions in that system. In general, the following measures were taken to extend support to workers during the pandemic and lockdown.

5.1 For Citizens of States (Including Returned Inter-State Migrants)

There were two interlinked initiatives, one by the union government and the other by state governments, to extend support to the people facing a crisis of survival during the lockdown period. Almost all such initiatives were targeted to the residents of states, and not the inter-state migrants, except distribution of cooked food. Most initiatives were targeted to support people registered in BPL (below poverty line) in particular states, and therefore largely excluding those who were poor and needy, but not formally recognised as so. On the whole, the following seven important initiatives were taken to extend support to poor, which were very low and also excluded a huge portion of the population:

- i) **Free Ration:** Free distribution of five kg grain (e.g., wheat, rice) and one kg pulses per month for three months through the public distribution system (PDS) under the National Food Security Act (NFSA). This was supposed to be over and above the subsidised ration distributed through PDS to the poor. It is clear that the free amount was highly insufficient for the survival of the family. Moreover, it is well known that a large number of people who are equally poor and needy are not covered in PDS, as also the inter-state migrant workers, and hence in initial stages they were excluded. According to a report, in two days, 1–2 May 2020, Gautam Buddha Nagar (Noida) district administration in its quick survey identified 11,500 families of low-income group without ration cards and thereby unable buy subsidised ration from fair price shops and thereafter 10,000 ration cards were distributed to the families in these two days (Dixit 2020). According to unions and organisations interviewed, similar situations and similar efforts by district administrations in later phase of lockdown was made across Uttar Pradesh and Gujarat. However, in Odisha these efforts started in the first phase itself and therefore the problem was addressed more effectively. Efforts in Odisha were more effective particularly because the government delegated the powers of district collector to the village panchayats and urban local bodies for the matters related to fighting pandemic and relief measures. Panchayats and urban local bodies were more aware of their localities and conditions of the local people and hence were more effective in identifying the people who were suffering and needed assistance.
- ii) **Cash Transfer:** Two schemes of cash transfer were implemented: a) INR 1,000 to the people getting old age pension, widow pension and disability pension; and b) INR 500 per month for three months to women Jan Dhan account holders. It may be worth mentioning that the pension amount is extremely low; the union government shamelessly contributes only INR 200 per month. This amount remains fixed after 2007, and hence after adjusting with inflation its real value may be around INR 93 only. Even after state top-up, the pension remains shamelessly low. For example, it remains only Rs 200 in Manipur, 250 in Mizoram, 300 in both Nagaland and Odisha, 400 in Uttar Pradesh, Bihar and Gujarat, 500 in Karnataka, 1,700 in Arunachal Pradesh, 2,000 in Andaman and Nicobar, Delhi, Goa, Kerala and Puducherry (see Joy 2018). Jan Dhan accounts, claimed to be a means of financial inclusion of the poor, have nothing to do with the poverty line and hence this insignificant support may have reached to above poverty line people as well. However, only those accounts may have received the money which were operational, and large numbers of accounts have become in-operational for lack of any transactions. According to a report almost every fifth Jan Dhan account was inoperative as of February 2020 (The Hindu Business Line, 6 February 2020). In a survey 16% of women with Jan Dhan accounts reported that their accounts were either in-operational or they were not sure about the status. About 66% reported to have received the money in their accounts, 20.8% did not receive any cash transfer and 13.1% were clueless about whether any amount has been credited (Kapil 2020).
- iii) Very few states also extended one-time cash benefit of 1,000–1,500 by cash transfer to poor registered under BPL, for example in Odisha and Gujarat, as reported by Bandhakam Majdoor Sangathan, Gujarat

and Odisha Chas Parivesh Surakshya Parishad; and also in Andhra Pradesh, Bihar and Rajasthan ([Anand and Thampi 2020](#)) and Kerala (The New Indian Express, 18 May 2020).

- iv) Free cooking gas cylinders to Ujjwala Yojana beneficiaries: There is no reliable data available on how many actually benefited from this.
- v) An insurance of 5 million INR to healthcare workers who are involved in combating the disease: There is no reliable data available about how many actually benefited from this scheme.
- vi) The government pays PF contributions of both employers and employees (earning less than INR 15,000 per month) for three months for the companies with 100 workers or less: There is no reliable data to show how many actually benefited from this scheme.
- vii) The budget of National Rural Employment Guarantee Scheme (NREGA) has been increased from INR 61,000 crore to 101,000 crore (40,000 crore increase) (India Today, 17 May 2020). Even when the increased amount looks large, it does not appear sufficient keeping in mind the huge increase in needy people due to the drastic shift of population from urban to rural areas. This part of the budget was the pending budget for the previous period and hence was to be utilised to pay pending wages of the previous period. The Kerala Government was quick to issue an order to complete distributing pending wages by 31 March without workers needing to reach the panchayat office ([Anand and Thampi 2020](#)). Moreover, there is no change/relaxation in rules of NREGA which may further restrict its effectiveness in dealing with the crisis. There is no provision for advance payment of NREGA wages. The NREGA works can only be construction and related works, and cannot include agriculture, horticulture, forestry, etc., therefore limiting the scope of generating employment. NREGA guarantees 100 days employment to one member of a family. Neither days of employment increased, nor the number of workers per family increased, keeping in mind the combined families. From April to July about 115 crore person days of employment was provided by NREGA. However, according to a survey only 20% of the people were able to get jobs. However, there were state-wide variations where some states performed better while others did not perform that well in this regard (Kapoor 2020). And according to another report, in total 22% or about 17 million applicants did not get a job; the highest number of applicants not getting a job were in Uttar Pradesh (30%) and Bihar (24%) (The Print, 14 July 2020).

Other initiatives were not in form of any additional support in terms of any additional benefits over and above the eligibilities in already existing schemes; for example:

- a) Under Kisan Yojana the farmers are eligible for INR 6,000 per annum and during the COVID-19 pandemic the government only announced for front loading INR 2,000 to beneficiary accounts.
- b) Wages under the National Rural Employment Guarantee Scheme were increased from INR 182 to 202 per day, and in actuality this increment was already due for inflation adjustments.
- c) Allowing workers to draw 75% of their PF amount (an amount to be not more than three months' wages) from their PF accounts. This is just allowing the workers to take their own money. This highlights a problem of the PF policy: that in times of such crisis the workers need money but they are not allowed to draw money from their PF account, unless they close their PF accounts. The current provision is only one-time facility, but this provision needs to be incorporated in the PF policy so that in times of crisis or loss of job, they can withdraw 75% of PF without closing their PF accounts to meet the emergency needs while they are searching for another job, as they are hired and fired frequently. This is interesting to note that out of total 450 lakh (45 million) EPF subscribers (as in 2019) (Economic Times, 25 Nov 2019), 36.02 lakh (3.6 million) or about 8% withdrew their PF during the lockdown period of April–May 2020. However, as high as 74% of those withdrawing PF were the workers earning INR 15,000 per month or below. However, on the whole, the number of subscribers who withdrew EPF funds during April–May was only 7% higher than the same period last year (Financial Express, 10 June 2020). The same trend continued during June–July and the number of EPF subscribers who withdrew their PF reached to 80 lakh (8 million) out of 600 lakh (60 million) subscribers up to July and it is expected in August it may reach up to 10 million. The total amount of PF withdrawn during April–July was about INR 30,000 crore out of total corpus of 10 lakh crore (The Week, 28 July 2020). This trend clearly reflects

that this surge in PF withdrawal was driven by loss of income of industrial workers during the lockdown period, and this may have proved of a great help to them. However, number of subscribers withdrawing PF during lockdown was at the most 7%–8% higher than the same period last year, which reflects the fact that the workers face similar crisis of loss of employment consistently even without lockdown, precisely due to frequent hiring and firing practices, and intermittent periods of employment and unemployment. The only difference between the normal affairs and the lockdown is that unlike the normal times, during lockdown all the workers faced the crisis at the same time. And moreover, unlike the normal times when unemployment periods may be normally about 10 days to two months, in lockdown it is extended to more than three months, and for many, to more than four months. Precisely because of prolonged periods of unemployment, it also created the crisis for those earning higher wages, as 26% of those withdrawing PF were earning between INR 15,000 and INR 50,000 per month, or more (Financial Express, 10 June 2020). Lastly, it is also to be kept in mind that in July the factories and establishments re-started their operations and this was followed by firing a large number of workers from the formal roles, which was naturally accompanied with PF withdrawal applications of workers, i.e., a significant proportions of PF withdrawal in July may be 100% withdrawal, rather than 75% as in above scheme. The rising numbers of PF subscribers in July also reflects the hiring of fresh workers, which may have followed after firing out workers who were on roll during the pre-lockdown period.

- d) Financial assistance extended to workers by construction workers' welfare boards in different states ranged from INR 1,000 to INR 6,000. According to the organisations and unions interviewed, this assistance was INR 1,000 in Gujarat and Uttar Pradesh, INR 1,500 in Odisha and INR 5,000 in Delhi. This may be worth emphasising that this was not a support from the government budgets, it was from the construction workers' welfare fund which is financed by levying cess from the construction companies at the rate of once percent of the construction cost. It is interesting to note that a huge amount of cess fund is accumulated in state welfare boards (total may be about INR 52,000 crore or 52,000 lakhs or 5.2 billion) but that large majority of workers have not been getting benefits because only a small minority have been enrolled to the boards yet. Moreover, even once enrolled, large numbers have not been able to renew it and hence unable to claim benefits. In Delhi, in 2018, the total number of registered workers were 539,421, while in 2020 there are only 39,600, which means that about five lakh workers were unable to renew their registration and hence were unable to claim the financial assistance. Finally the issue went to the High Court which directed the government to send SMS in Hindi to around 539,421 construction workers in the next four days, expedite the verification process and extend the benefits to all eligible for it. The Delhi Government also started an online portal for verification of those construction workers whose registration has lapsed, and the portal is getting over 400 applications daily (The New Indian Express, 22 May 2020). According to Vipul Pandya of Bandhakam Majdoor Sangathan, and Sandeep Khare of Vigyan Foundation, the same situation is witnessed in Gujarat and Lucknow as well. Out of about 20 lakh construction workers in Gujarat only about 6.38 lakh construction workers are registered in welfare board, and out of those registered only about 3.68 lakh workers were able to receive the assistance. There are also problems in terms of bank accounts not linked with Aadhaar numbers and this is also creating a problem in cash transfers. Similarly in Uttar Pradesh, there may be around 56 lakh construction workers and out of this only 13–14 lakh are registered in welfare board and in 2020 only about 10% have renewed their registrations. In the midst of the pandemic the labour department in all states is trying to sort out problems to at least renew the registrations in order to extend benefits to them. However, this is not an easy task.
- e) In Kerala, a significantly larger number of workers, especially informal sector workers were able to get assistance through various welfare boards, for example, Rs 1,000 to garment workers registered in Kerala Tailoring Workers' Welfare Fund Board, Rs 2000 to fish workers registered in Fish Workers' Welfare Board, Rs 1,000 to Beedi workers and coir workers from their welfare boards (Mathrubhumi, 9 April 2020). Similarly, various other sections of workers were also able to get financial assistance from 1,000–2,000 from their welfare boards. The welfare boards are occupation-based organisations, and

there are neither conditions of residency nor the poverty line; hence workers above the poverty line and inter-state migrant workers registered in welfare boards were able to get financial assistance. However, largely due to absence of staff in welfare fund board offices during lockdown, large proportion of workers registered in boards were not able to get financial assistance until 18 May 2020, as according to a report, only 2.26 lakh out of 5.3 lakh members of Tailoring Workers' Welfare Fund Board, 73,867 out of 15.89 lakh members of the Kerala Agricultural Workers' Welfare Fund Board, 27,000 of the 10 lakh members of the Kerala Motor Transport Workers' Welfare Fund Board, 3 lakh out of 19 lakh members of Kerala Building and other construction workers' welfare boards were able to receive the financial assistance until the first half of May (The New Indian Express, 18 May 2020).

- f) Payment of wages for lockdown period: The government order dated 12 March 2020 directed all employers to pay full wages to the workers for the lockdown period. However, the employers challenged this order in the Supreme Court and then on 18 May 2020, the government order was withdrawn before the Supreme Court decided the case. Finally on 12 June, while the government had already withdrawn its order, the Supreme Court directed that employers may initiate a process of negotiation with their employees' organisation and enter into a settlement with them (Pathak et al. 2020). However, it was not binding and depended on employers. It was in this background that only a few decent-sized companies paid wages for the March–April lockdown period but no company paid any wages for the lockdown period after April.

5.2 For Migrant Workers Stranded in Labour Receiving States

The majority of inter-state migrant workers live and work in the destination states for many years and only occasionally visit their home districts. However, they are largely out of state social protection systems, except access to subsidised public services, most importantly public health services, and except the industrial workers who are covered in social security schemes like ESI and PF. Most social security schemes in the states of India are meant for people below the poverty line, and the inter-state migrants are not covered in such schemes. Inter-state migrants are also not covered in the National Rural Employment Guarantee scheme and construction workers' welfare boards of destination states. Moreover, any financial assistance by state governments in times of any crisis is generally targeted to state citizens and not to the migrants. The financial assistance provided by the union government is also targeted to state citizens and not migrants, as the migrants may be covered in such assistance in the states of their origin. This is a normal system based on the assumption of normal conditions where long-term inter-state migration does not exist, and even if it exists it may be short term and hence no need to make any significant provisions to cover them in social protection systems of the states of destination. However, as we know the situation has completely changed in the last few decades, particularly after the 1990s, and now the inter-state migrant workers have become the base of state economies in many states like Punjab, Gujarat, Maharashtra and Kerala, etc.

The only law that is specially meant for the inter-state migrant workers is the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979. Chapter V of this act provides details of benefits and facilities required to be provided by the contractors to inter-state migrant workers including: i) displacement allowance equal to 50% of monthly wages; ii) journey allowance equal to the fare from place of residence in state of origin to workplace in state of destination for both inward and outward journey; iii) regular payment of wages, equal pay for equal work; iv) accommodation for period of employment; v) medical facilities free of charge; vi) protective clothing, etc.

Among these, only three provisions (displacement allowance, journey allowance and accommodation facilities) are specific to the migrant workers, and the rest is covered by the various labour laws applicable to all workers including migrant workers. Interestingly, the three specific provisions are equally relevant to intra-state migrants, considering the huge geographical size of the states, but intra-state migrants are not covered in this act. Moreover, there is no provision for social protection in case of any natural calamities or other such incidents. Most importantly, even after three decades this remains only a paper legislation with almost no practical meaning. There are rarely any registrations of workers under this act. There is no focused administrative

machinery to implement this legislation. Therefore, the legislation also becomes ineffective as it is meant only for those inter-state migrant workers who are engaged through contractors who brought them from the states of origin, but now the majority of workers migrate directly and reach to the employers directly, rather than through contractors. And, even when the contractors are involved, the employers prefer to not recognise this fact in order to avoid registering them in inter-state migrant workers act. Labour department also hesitates to insist as it has no capacity to handle the load of this additional work. Hence, the situation is such that the inter-state migrants constitute the huge majority in many sectors in many states; however, legally they do not exist or exist in very small numbers.

The construction and garment workers interviewed were not even aware of the Inter-State Migrant Workers Act and its provisions and they were not registered under it, even when they were working in the destination state from 2–20 years. It is in this background that we can understand the problems of inter-state migrant workers stranded in their destination state during the lockdown period. In the initial stages, no other support was extended to inter-state migrants stranded in destination states other than the distribution of cooked food packets. In the second phase of lockdown most of the states also attempted to provide them ration kits, however, it required a hectic exercise to identify the inter-state migrant workers in need, as there is no data base of inter-state migrant workers.

All unions/organisations interviewed reported that in the second phase of lockdown, district administrations in most areas sought their help in identifying and distributing ration kits to the workers in need, including inter-state migrant workers and also local workers not covered in BPL. According to Mr RS Rajbhar of Vastra Silai Udyog Kamgar Union, his union was fully involved in identifying and helping the inter-state migrant workers to get the ration kits distributed by the district administration; and moreover, union mobilised support from the society and distributed ration kits to 1,000 workers who were not able to get this from district administration. The ration kit provided by the union included food ration sufficient for 15 days and other necessities like soap, etc. According to Sandeep Khare of Vigyan Foundation, the state of Uttar Pradesh being the largest source of inter-state migrants, the city of Lucknow was a midpoint for returning inter-state migrants from various states, and also a midpoint for many returning to some areas of Bihar. Along with this, the city is also home for large numbers of intra-state state migrants. Exceptionally large numbers of migrants were returning using various means, and huge numbers were walking through the city. State support being drastically insufficient, it required exceptionally large efforts to mobilise resources and manpower to extend support to returning migrants and working poor living in the city. To address this task many trade unions, NGOs and various social and religious organisations came together to form a platform named COVID-19 Support Group. May to early July was the hectic period during which the platform was able to mobilise sufficient resources and manpower to help more than 50,000 migrants. The support included: distribution of cooked food, water, ration, masks, sanitary pads to women and sleepers to those walking barefoot, etc., along with organising medical camps to provide medicines to those in need and first aid to those with injuries like bleeding feet.

According to Bipul Pandya of Bandhakam Mazdoor Sangathan, Gujarat there were large numbers of organisations involved in food distribution to the migrants, and the initiative of the state machinery was also working efficiently to provide food and ration support to the migrants. Hence, his organisation was largely involved in identifying and helping the inter-state and intra-state migrant workers to be covered in cooked food and ration kit distribution by the administration. According to Amulya Kumar Nayak of Odisha, the government initiative to support the working poor with food and ration was efficient enough to address the task; however, there were a small number of inter-state migrants who were living and working in certain parts of Odisha and were not documented and hence were not able to get support. Therefore, his organisation was involved in identifying these stranded migrant workers and help them get state support for food and ration and also transport support for going back home.



Trade unions and NGOs extended survival support to workers; they also helped the government in identifying the workers in need to deliver the ration kits. The ration kit was the only social security provision from government to all workers. Only a few states extended cash benefits to migrant workers.

The construction and garment workers interviewed reported to have received cooked food packets, but none of them received free ration kits. However, when they returned back to their home state, they all received free ration kits from April to June. But free ration kits were not provided after June. They also reported that cash transfer promised in the Jan Dhan account of females was also received by their families; however, no one in their families was eligible for old age, disability or widow pension. Moreover, they all were landless or near landless and hence no one was covered under the Kisan Scheme. Workers from both states, Uttar Pradesh and Bihar, reported that one member from their families got jobs under NREGA for 7–15 days during May–June period.

Garment workers who were covered under the Provident Fund Scheme reported that they heard about the scheme allowing the withdrawal of 75% of PF amount, however, they were not able to withdraw it. They have not much knowledge of the internet, and in their village there was no one to help them in this regard. Moreover, there may not be much in their PF account, as they are fired and rehired periodically even when continuing in the same factory, mostly every 6–8 months, and whenever they were fired they withdrew their PF.

Among the destination states, probably only Kerala and Telangana extended some amount of ex-gratia payment to the inter-state migrant workers. Among the states of origin, probably the states of Jharkhand, Bihar and Odisha extended some ex-gratia payments to the returning inter-states migrant workers (Srivastava 2020); Jharkhand and Bihar paid INR 1,000 (ibid.) and Odisha paid INR 2,000 to each (News18, 19 April 2020). Odisha

set an example in this regard by creating quarantine centres in each panchayat and giving the power of collector to the panchayats in connection with COVID-related matters. Ex-gratia payments were distributed by panchayats to each inter-state migrant worker who completed a quarantine period in panchayat after their return (ibid.). None of the construction workers interviewed reported to be registered under the construction welfare boards, and hence were not eligible for the financial assistance provided by the relevant state welfare board.

According to Vipul Pandya of Bandhakam Mazdoor Sangathan, in general the inter-state migrant workers are not registered in construction workers' welfare boards in destination states, and even when they somehow get registered, they are denied benefits on the pretext that they need to avail these benefits from welfare boards in their home states. This is one of the serious problems, as the inter-state migrants work in destination states but are denied benefits when they are in need while on work in destination states. This is why construction workers unions are raising the demand for portability of welfare benefits so that the inter-state migrant workers can claim these benefits in destination states.

6. The Long-Term Crisis

As we discussed in the section of politico-economic background, the current politico-economic crisis is multi-dimensional and the crisis was set-in well before the COVID-19 pandemic. The nature of crisis is such that it may persist for a longer period of time and needs radical reform rather than patchwork changes. The main aspect of this crisis is reflected in: i) serious agrarian crisis; and ii) no significant growth in urban employment. The pandemic has further aggravated this crisis. According to some estimates, in comparing the pre-pandemic and post-pandemic, India is set to lose around 130 million jobs, and the intensity of job loss may be more in aviation, automobile, travel and tourism, food, entertainment, and manufacturing, while some sectors may retain the previous level of jobs or record little growth, for example, healthcare, pharmaceuticals, e-commerce, IT services and essential retail (India Today, 16 June 2020). According to a survey by the Clothing Manufacturers Association of India (CMAI), the condition is such that out of about 85,000 clothing factories (employing about 12 million workers) running in pre-lockdown period 25%–30% may close down, and there may be a further job cuts of 25%–30% in those factories that survive (Narasimhan 2020). This is accompanied by anti-labour policies, like some state governments suspending labour laws for nearly the next three years, and many increasing the working hour limits and relaxing the conditions of hire and fire. All this has drastically reduced the bargaining power of labour. Hence, the workers are not in a position to create any great challenge to the ongoing wave of closures, retrenchments and downsizing, and reduction in wages. This trend is more strongly reflected in the automobile sector (Times of India, 12 July and 15 July 2020).

There is a large-scale unemployment crisis, with many factories closing down, running with nearly half of their production capacity, large-scale retrenchment, employers compelling workers to work on reduced wages and benefits, government suspending or downgrading labour laws in cover of COVID-19 and an absence of space for any great protest from trade unions.

According to RS Rajbhar of Vastra Silai Udyog Kamgar Union, the garment factories integrated in global value chains and producing for multinational brands are the largest employers, and many of these factories have been permanently closed down for lack of orders. The majority of factories that have started their operations have been running with 30%–40% capacity and hence the demand for labour is low. These companies are using this condition as an opportunity to fire those workers with longer length of service, already eligible or soon eligible for payment of gratuity. The workers are fired without following any procedures and without payment of their legal dues. Those who are engaged are asked to accept the condition that: i) they will be considered as fresh workers, i.e., on rolls they will be fired and then rehired, i.e., their length of service will be lost; and ii) they need

to accept lower wages in comparison to what they received before lockdown. When the workers raise their voice, the employers give a straightforward answer: do whatever you can, but be reminded that the government is with employers. Large numbers of workers are coming to the union office with such complaints, but the union is also not able to do anything, as the labour laws are suspended for three years in the state of Uttar Pradesh.

By enacting the Uttar Pradesh Temporary Exemption from Certain ([Labour Laws](#)) Ordinance, 2020, the government of Uttar Pradesh has exempted all establishments, factories and businesses from the purview of all but four labour laws: the Building and Other Construction Workers Act, 1996; Workmen Compensation Act, 1923; Bonded Labour System (Abolition) Act, 1976; and Section 5 of the Payment of Wages Act, 1936 (the right to receive timely wages) and provisions in labour laws related to children and women. Thus, the laws related to industrial disputes, occupational safety and health, working conditions, and those related to trade unions, contract workers and migrant labourers are suspended for three years. Similarly, the Madhya Pradesh government has also suspended labour laws for 1,000 days. The suspension of labour laws in Uttar Pradesh and Madhya Pradesh also means suspension of rights to organise and collectively bargain. Some states including Rajasthan, Punjab, Odisha, Maharashtra, Himachal Pradesh, Madhya Pradesh, Haryana, Assam and Gujarat have increased the permissible working hours to 12 hours daily. All these changes in labour laws have been done by way of issuing ordinances, without any consultation and without going through legislative assembly. Similarly, taking the opportunity of the pandemic and lockdown, the union government is also aggressively moving to pass all four integrated labour codes that trade unions are strongly opposing. Code on Wages is already cleared by both houses of the parliament. The other three codes have hurriedly been passed in one house of parliament (Loksabha) on 22 September 2020 amidst protest (see Chamaraj 2020; ET, 22 September 2020; Indian Express, 24 May 2020; Jha 2020; Kumar 2020; Rajgopal 2020).

In an incident well-covered in the media, Gokuldas Exports in Bangalore suddenly retrenched more than 1,200 workers, on 6 June 2020 on the pretext that H&M cancelled their orders to the company. The female workers form the majority of the workforce in the company and they also form the majority among the workers thrown out. The workers have been continuing their protest in front of the factory gate (Crump 2020).

It is interesting to note that many garment factories have closed the operation of creche facilities, which is also becoming a tool for denying the job to women who have small children. In Bangalore where large-sized factories operate with a huge majority of female workforce, large numbers of women are facing this problem. Legally such factories cannot operate without a creche facility, but on the pretext of the pandemic they are justifying the closing of creches (Nagaraj 2020).

7. What Worked Better in the Existing Social Protection System

Proposing any social protection system to address the needs of the people must be based on analysis of two aspects: i) the nature of crisis faced by people; and ii) insights from past experiences about which aspects of existing social protection systems proved to be more promising in addressing the crises. We have already discussed the nature of the crisis, now let us have a brief look at the experiences, including the most recent experiences during the pandemic and lockdown, in order to articulate which aspects of existing social protection systems appear more promising or provide more scope for strengthening the social protection system. From our discussion in earlier sections, the following aspects of existing social protection systems emerged as more promising, even while having their own weaknesses, and offer the scope for strengthening the social protection system:

7.1 Social Protection System for Formal Workers in Formal Sectors

We have already discussed that significant proportions of formal workers in formal sectors were able to support themselves during lockdown by withdrawing 75% of their EPF (Employees' Provident Fund Scheme). This was likely the luckiest section of the workforce, as these workers were able to support themselves during the crisis in a comparatively better way, if they got their money in time. PF scheme is based on a contribution of

12% of wages both from employee and employer, and extends benefits like: accumulated money plus interest upon retirement, resignation, death, and partial withdrawals allowed for specific expenses of house construction, higher education, marriage and illness, etc. (but not for loss of employment). Part of PF money may also be opted for Employees' Pension Scheme (EPS) which may generate monthly benefits for superannuation/retirement, disability, survivor, widow(er), and children, along with the benefit provided in case of death of an employee if they remained a member of the scheme at the time of the death, and it may be equal to about 20 times of wages.

Employees State Insurance (ESI) is another lifeline of the workers. It is based on contributions of 4.75% of wages from employers and 1.75% of wages from employees. During the pandemic, even when ESI hospitals were converted to COVID-19 hospitals, insured employees were offered all facilities in allied hospitals. ESI offers a wide range of benefits, like: i) full medical care of insured person and their family; ii) sickness benefits in the form of cash compensation at the rate of 70% of wages for a maximum of 91 days in a year, if insured worker contributed for 78 days in a contribution period of six months; extended sickness benefits may go up to two years with 80% of wages; iii) maternity benefits of 26 weeks with full wages; iv) disability benefits: 90% of wages for temporary disability period, 90% of wages in monthly payment in case of permanent disability, and 90% of wages in monthly payment to dependent in case of death of insured worker by occupational injury/disease; v) unemployment allowance equal to 50% of wages (along with continuing medical facilities) for a maximum period of two years, in case of job loss due to closure or retrenchment, but only if worker was insured for three years or more before job loss (Rajiv Gandhi Shramik Kalyan Yojana 2005); and cash compensation equal to 25% of wages for three months, only once in life, in case of job loss, provided workers who has completed insured period of two year and contributed for not less than 78 days in each of the four preceding contribution periods (Atal Beemit Vyakti Kalyan Yojana 2018). Apart from this the workers are paid gratuity (15 days wages per completed year of service) after leaving job, provided they completed five years of service. Moreover, in case of retrenchment after completing one year of service, the employers are required to give notice of one month or pay one-month wages in lieu of notice and pay retrenchment compensation, normally equal to 15 days wages per completed year of service. The workers in companies with 100 or more workforce are better protected as the law requires prior government permission before retrenchment. Workers also get an annual bonus if completed 30 days of employment in a year, and paid casual and earned leaves which if not used can be cashed.

This was the benchmark of social protection in India and it was probably thought that with increasing industrialisation the majority of working people may be accommodated in industries and thereby also in this social protection system; and gradually equal quality of social protections may also be extended to other sections of working classes. However, in the last three decades the whole logic has been reversed, when expansion of industrialisation is accompanied by weakening of this social protection system, decreasing its coverage and throwing the majority of industrial workers out of this social protection net. On the one hand, expansion of practice of layered outsourcing, i.e., the global value chain system, greater proportion of work shifted to unprotected or informal sectors; on the other hand, there is a drastic increase in unprotected or informal workforce within protected or formal sectors. It may be worth emphasising that in protected or formal sectors, legally no worker can be engaged informally; for example, even a casual worker engaged for four hours in an establishment covered under ESI needs to be registered under ESI. However, large numbers of workers are denied any formal employment relationship by openly violating labour laws, and the government permits it by simply overlooking it. In fact, the new legal provision for allowing fixed-term contracts only legalises what is already in practice illegally.

Social security systems that worked better included: i) Employees State Insurance offering unemployment allowance for certain periods; ii) Provident Fund Scheme allowing withdrawal of 75% of contributions for survival needs during this crisis; iii) cash support to all workers registered in construction

workers' welfare boards; iv) cash support to all workers registered in decentralised welfare boards of informal sectors mainly in Kerala; v) delegating all power to elected local bodies to identify and extend support to the people in need, and to extend cash benefits to all covered in poverty line and all returning migrants after completing quarantine period, as in Odisha; vi) public distribution system extending free or subsidised ration (mainly grains and pulses, but in some states also included other necessities) in all localities across the country; and vii) National Rural Employment Guarantee Scheme extending some employment opportunities to rural people during COVID-19 period.

7.2 Social Protection System for So-Called Informal Sectors

The key aspects of social protection systems that emerged more promising for informal sector workers even during the pandemic and lockdown included the following:

i. Decentralised Workers' Welfare Boards

The decentralised workers' welfare boards emerged more promising in terms of extending the support to the workers during the COVID-19 pandemic and lockdown. For example, construction workers' welfare boards which are formed in most states, and welfare boards of various sections of workers in Kerala. The most important aspect of welfare boards is that they are occupation-based boards and not based on any poverty line, and therefore more inclusive; as well, they have their own financing system and therefore do not depend much on government support. Those workers registered in workers' welfare boards, whether below or above the poverty line were able to receive financial assistance, while the fate of those workers and sectors not organised in welfare boards depended on exclusionary schemes of financial assistance, like those linked to poverty line, women Jan Dhan accounts or old age, widow, disability pensions. The welfare boards are occupation based and hence the inter-state workers are also covered in the boards. Moreover, the trade unions are important components of the boards and hence the workers have their strong voice in framing the boards' policies and their implementation. The system of workers' welfare boards promises a great scope for strengthening the social protection system according to the needs of the workers in particular sectors.

However, it also needs to be emphasised that this system of social protection has been gradually deteriorating, particularly after liberalisation of economy and emergence of global value chain systems, which treats the informal sector workers as a reserve army of labour and source of profit, and hence concerned only to maintain them as such rather than transforming their work and life by empowering them. The concept of informal sector (consciously not recognising the different nature and problems of different occupational sectors) and the associated concept of common centralised social protection system (consciously overlooking different social protection needs of different occupational sectors), again, clearly reflects that the focus is on maintaining the status quo. And then, as such, it becomes a political game of 'appear to be doing, rather than actually doing', which gets reflected in big-big data and big-big claims and promises of what they are doing, but actually nothing changes on the ground. The centralised Unorganised Workers' Social Security Act, 2008 was the probable institutionalisation of this policy and politics. This act claims a lot, but practically it is meaningless legislation. The dominant politics of the so-called informal sector and centralised social security system for informal sector created a condition in which the politics of decentralised workers' welfare boards was thrown in the background, and the existing decentralised workers' welfare boards also gradually deteriorated. The registration of the workers in existing boards has been decreasing and a significant proportion of the workforce remains outside

the boards and hence not getting the welfare benefits. There are various reasons for this, including lack of awareness and lack of efforts to cover all workers, and also some other factors.

In Kerala, the policies and politics of workers' welfare boards is still strong enough but the institution of welfare boards has been deteriorating. The continuing strength is reflected in the fact that large numbers of welfare boards are still functioning and they were able to provide consistent social protection and also financial assistance during the pandemic and lockdown. When in most of other states there exists no social protection schemes for inter-state migrant workers, Kerala has already enacted Kerala Migrant Workers' Welfare Scheme 2010 which offers four welfare benefits to registered migrant workers including: INR 25,000 for accident/medical care, INR 1 lakh to family in case of death, children's education allowance; and termination benefits of INR 25,000 after five years of work, etc. (Basheer 2018). Apart from this, the government has also started an 'Apna Khar' project for providing proper accommodation to inter-state migrant workers. The projects are already inaugurated in Palakkad and planned in Perumbavoor, Kochi, Kozhikode and Thiruvananthapuram (Times of India, 4 April 2020). The government is moving towards establishing the migrant workers' welfare board and the scheme of 2010 was a step in that direction. However, it needs to be emphasised that the registration and renewal of membership of workers in boards has been low and a significant proportion of workers remain outside the boards and unable to get welfare benefits. Total registration in Kerala Migrant Workers' Welfare Scheme is only 4 lakh, while the total number of inter-state migrant workers may be about 32 lakh (Times of India, 4 April 2020). On the other hand, it seems there is also a policy shift, which is reflected in the move for creating a separate welfare board for migrant workers. The concept of decentralised welfare boards were occupation-based welfare boards, and they were to be focused not only to address the occasional contingencies, but also to reduce the chance of contingencies by resolving the structural deficiencies of the sectors and empowering the workers. This can be done only by aligning the state policies with the welfare boards of different sectors. This was probably a consistent weakness in practice, if not in thought. It is this weakness that is asserted in times when the politics of decentralised workers' welfare boards have nearly disappeared at national level and politics of treating informal workers as a reserve army of labour based on the concept of informal sector has acquired dominance. This is also reflected in two more examples. One, there is a positive discussion in the Kerala government about how to include the inter-state migrant workers under social protection. The one way of doing this is seen as forming a separate welfare board for migrant workers, and the other way is seen as including all inter-state migrant workers in state construction workers' welfare board (Times of India, 4 April 2020). The largest proportion of inter-state migrant workers are construction workers and hence the logic of accommodating all in the construction workers' welfare board, whether construction workers or not. But migrant workers form large proportions in almost all sectors, and hence the logic of separating a welfare board for migrant workers. One more problem is that the migrant construction workers may be members of construction workers' welfare boards in their home states, and in such conditions can they be members of boards in both states. However, in both cases, the concept of an occupation-based welfare board is losing its meaning. Two, largely to reduce administrative costs, the government is moving to wind up operations of five welfare boards and merge them with other boards. Kerala Abkari Workers' Welfare Fund Board to be merged with the Kerala Toddy Workers' Welfare Fund Board; the Kerala Jewellery Workers' Welfare Fund Board with the Kerala Shops and Commercial Establishment Workers' Welfare Fund Board; The Kerala Small Scale Plantation Workers' Welfare Fund Board and the Kerala Reed, Kattuvalli and Pandanus Workers' Welfare Fund Board with the Kerala Labour Welfare Fund Board; and The Kerala Beedi and Cigar Workers' Welfare Fund Board will be merged with the Kerala Handloom Workers' Welfare Fund Board (The Hindu, 24 June 2020). This initiative clearly shows that the concept of decentralised occupation-based workers' welfare board is gradually losing its meaning in Kerala.

In 2013, in Tamil Nadu, another big home of workers' welfare boards like Kerala, the government suspended trade unions' involvement in renewing membership of workers in welfare boards which has been one of the important factors for the decline in membership renewal. The impact was such that less than 20% of informal workers were able to get financial assistance during the pandemic and lockdown (Kumar and Prakash 2020).

ii. Public Distribution System (PDS)

The PDS system emerged as a lifeline for distribution of ration kits to the poor during the pandemic. It was next to impossible to quickly deliver the ration to a huge population in desperate need (nearly 800 million) without the well-established network of ration shops in the vicinity of the needy people. However, it also exposed the weaknesses of the PDS system primarily because of the narrow vision with which it is implemented and because of its linkage with the below poverty line (BPL). There are large proportions of poor who are eligible but left out of BPL, and there are others who, income-wise, are equally poor but not considered eligible by parameters of BPL. A study focusing on social health in 34 villages in Maharashtra found that several assets were similarly distributed between BPL and non-BPL households, and interestingly, there were families who must be eligible for but not registered under BPL, while there were families registered under BPL but should not be eligible looking at the assets available to them (Ahankari et al. 2017). This problem is encountered across that country. This may be because two factors: i) technical requirements are faulty and not able to capture reality; and ii) various kinds of biases. Therefore, large numbers of needy people are not covered under the PDS. There is also a possibility that the government itself does not focus on increasing the coverage of PDS for two reasons: to avoid showing higher levels of poverty, and to avoid increasing expenses in subsidies. Whatever the reason may be, the situation was powerfully exposed during the pandemic, when district administrations, after realising that large numbers of needy and poor are not able to get ration kits, started surveying and identifying them and making their ration cards in the midst of pandemic. On the pretext of stopping leakages, provision of linking the ration cards with Aadhaar created further problems, as large numbers of ration cards are not seeded with Aadhaar, and among those seeded with Aadhaar cards, the biometric verification fails for many. Migrant workers remain naturally excluded, as they cannot be registered in the poverty line in destination states.

Experiences during the COVID-19 pandemic make a strong case for a radical reform in the PDS system, and rather than spending a lot of money in surveys to identify BPL (poor), Antyodaya (the poorest of poor), and in Aadhaar verification machines, etc. for exclusion of people, there is a need to move back to universal coverage of PDS. It may be worth mentioning that from the 1960s onwards, the PDS system was running with universal coverage, not excluding any section of population, and the nature of commodities distributed under the PDS system itself determined that it remained a lifeline for the poor, and not for well-to-do people. The PDS included six essential commodities: rice, wheat, sugar, edible oil, soft coke and kerosene oil; however, some state governments added some other commodities as well, like: pulses, salt, candles, matchboxes, ordinary clothes, school textbooks/copies, etc. (Nawani 1994). This PDS system with universal coverage and welfare measures for providing more essential goods in subsidised rates continued until 1992. The PDS system of social protection had double benefits: extending social protection to the poor, and providing an insured market for farmers and some industries; thereby, it brought positive impacts to the whole economy. For distribution of grains and pulses through PDS the government formulated procurement policies and fixed prices for procurement which had multiple positive impacts on agrarian economy; on the one hand it ensured fair price to the farmers and on the other hand it facilitated expansion of cultivation. Procurement was also done for maintaining stocks of the grains to ensure food security which was used to regulate prices of grains in the open market. Similar was the impact of procurement of edible oils. Similarly, procurement of cloths had also a positive impact on growth of the handloom industry in which self-employed workers formed the large majority.

However, after liberalisation of the economy we observe a general trend towards anti-people policies, and similarly a change in the PDS policy as well. In 1992 the universal coverage of PDS system was abolished and so-called Revamped Public Distribution System (RPDS) was launched, which was further renamed as Targeted Public Distribution System (TPDS) clearly excluding the coverage of all others except those formally identified as poor. If we calculate the total government expenses incurred in the exclusionary exercises, surveys, studies, conferences making various kinds of ration cards and distributing it to the poor, using a lot of technology in verification of identity of poor, this much money may likely be able to cover a significant proportion of costs of making universal coverage of PDS.

iii. National Rural Employment Guarantee Scheme (NREGA)

NREGA has been a lifeline for rural workers ever since it was launched in 2006. It was based on an assessment that agriculture workers are in general unemployed for more than 100 days every year, and hence the National Rural Employment Guarantee Act, 2005 was enacted to ensure 100 days of employment to one member in each family every year, irrespective of households' economic position, farmer or landless, men or women. This was considered as a right under the act. Once a household demands a job by submitting an application, the village panchayat has to provide the job, and if they were not provided a job after applying, they were to be provided unemployment compensation. During the COVID-19 pandemic and lockdown, NREGA offered the only best possible strategy to ensure the survival of rural poor. There was a surge of demands for NREGA jobs in almost all states. However, the efficiency of the state system in providing jobs varied by state. This also exposed the problems of the NREGA in that it guarantees only 100 days of employment per year to only one household member. However, the unemployment days in agriculture, particularly for small-marginal farmers and landless labour has increased in last decades primarily due to specialisation and mechanisation in agriculture and also due to recurrent droughts and floods and other natural calamities. On the other hand, in NREGA schemes the works are restricted for infrastructure construction like digging ponds and wells and construction of roads, and therefore it restricts the scope for generating the employment. Moreover, the budget for NREGA has largely not been sufficient to ensure 100 days employment as guaranteed by the act, apart from a lot of problems related to implementation. Cumulative impact of all these factors has created a situation where we rarely come across any worker getting 100 days of employment. The actual average employment provided may not be more than 50 days, and only in the rarest cases can we find anyone getting unemployment allowance for being not provided a job after applying for it (see Pratap 2010).

iv. Decentralised System of Implementation

Decentralisation is the core of democracy and democracy is the core of people's empowerment. This dynamic is crucial for the effectiveness of any system. In terms of social protection, identifying the needs and nature of social protection for different sections of people, and delivering in time, is not possible without empowering the people by way of democratic decentralisation of social protection systems. The decentralised workers' welfare boards, even in their limitations, reflected the benefits of decentralised social protection systems as we discussed earlier, and also, they offer better scopes for strengthening the social protection systems. Another example of decentralised implementation of social protection measures was provided by the state of Odisha during the pandemic and lockdown. Facing a multi-dimensional crisis created by a flood of returning inter-state migrants, huge expenses required for creating and running quarantine and COVID-19 centres in cities they were arriving in, shortage of medical staff and flooding of hospitals, the state government of Odisha took a radical step to convert the crisis into opportunity. The government gave the power of district collector (highest administrative authority in district) to the heads of rural and urban local bodies for COVID-related matters in their jurisdiction and established the quarantine centres in each locality under the command local bodies, for example in each village panchayat (News18, 19 April 2020). In Odisha each village panchayat has a high school with enough rooms and open space, and therefore fit for quarantine centres. The government declared that each returning inter-state migrant will be provided INR 2,000 assistance after completion of the quarantine period and this assistance was to be distributed by the heads of village panchayats and urban local bodies (ibid.). This ensured that no inter-state migrant escapes quarantine. Moreover, ration kit distribution was also done by the panchayats and urban local bodies, who were well equipped to quickly identify the needy people not covered under the poverty line to provide them ration kits and take quick action to cover them under poverty line to allow them to get free and also subsidised ration from PDS ration shops. The services of medical staff engaged in primary health centres and sub centres in relevant localities were used in quarantine centres. This proved far more effective than in the centralised systems of implementation in most other states. According to Amulya Kumar Nayak of Odisha Chas Parivesh Surakshya Parishad, in the second stage, the government took another step of opening COVID care centres in each locality under the command of village panchayats and urban local

bodies. Again, this turned the crisis into a great opportunity. The COVID care centres required regular services of a certain number of staff, and due to a shortfall of medical staff in primary and secondary health centres (as is the case all over India), it was not possible without a quick and large-scale drive for recruitment of medical staff. Hence, the decision of creating COVID centres in each locality under the jurisdiction of village panchayats and urban local bodies not only made the implementation more effective, minimised the administrative costs and reduced the pains of people, but also led to the strengthening of the primary and secondary healthcare system that may have long-term positive impacts on the access to healthcare services for the low-income people, particularly the rural people.

8. Recommendations: Nature of Initiatives Needed to Strengthen the Social Protection System

There are two aspects of social protection: i) the policies targeted to socio-economic and political empowerment of working people and their families to be able to protect themselves against normal kinds of contingencies like short-term loss of income and livelihoods, inflationary pressures, short-term sickness or minor employment injury and occasional increase in expenses for marriage, maternity, education of children, housing etc.; and ii) the policies targeted to protect the working people and their families during abnormal contingencies with long-term impacts, like national-global economic crisis, natural calamities, long-term sickness, major accidents or occupation diseases leading to disability or death, long-term loss of unemployment/livelihoods, etc. These two aspects together give a meaning to social protection as a 'Life cycle continuum investment for social justice, poverty reduction and sustainable development' (See ADB 2003:1; Garcia and Gurat 2003:13–14).

The government in any democratic society is primarily not a power over people, but an elected body entrusted with responsibility to manage the country's resources in such a way and devise and implement such policies that enable addressing the above two aspects of social protection in the most efficient way, according to the needs of the people and on the basis of available knowledge and summation of experiences. Development of democratic society and maturing of democracies is to be reflected in the decentralisation of the whole process of policy making and its implementation, and hence it emerges as an important aspect for social protection systems.

It is in this light we can articulate the nature of initiatives needed to strengthen the social protection systems. The integrated Social Security Code recently proposed by the government fails in all the above aspects. The code amalgamates and thereby repeals nine social security laws including: The Employees' Compensation Act, 1923; The Employees' State Insurance Act, 1948; The Employees' Provident Funds and Miscellaneous Provisions Act, 1952; The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959; The Maternity Benefit Act, 1961; The Payment of Gratuity Act, 1972; The Cine Workers' Welfare Fund Act, 1981; The Building and Other Construction Workers' Welfare Cess Act, 1996 and The Unorganised Workers' Social Security Act, 2008. Apart from this, social security schemes for beedi and mine workers may also end. This is a simple copy paste of existing laws at one place and in no way any advance on the pre-existing laws (Mehrotra 2020). The code neither attempts to formulate a universal approach of social protection nor sets any universal standards; neither addresses the problematic inconsistencies in definitions nor addresses the problematic caps/thresholds for various social security provisions. It appears more as many social security systems floating in one document rather than an integrated social protection system. The objective behind this exercise apparently emerges to be: i) centralising the whole system in the hands of union government and minimising the role of federal structure and dynamics; ii) focusing more on 'appear to be doing' rather than 'actually doing'; and iii) minimising the government expenditure of social protection by attempting to downgrade the social security provisions wherever possible and avoiding enhancing and strengthening social protection measures in any way. It may in itself be a futile exercise to attempt any detailed analysis of the draft code; the proposed structure (or absence of structure) provides no scope for making it meaningful by adding this or that provision and by changing this and that provision; it needs to be rejected completely.

Keeping in mind the existing vulnerabilities and past experiences of various experiments in the area of social protection, the nature of policy initiatives needed towards strengthening the social protection system are required to be based on the following aspects:

Main Elements of Proposed Social Security System:

- 1. Minimum wage and minimum income: Minimum wage (based on three consumption units) must not be less than INR 18,000 per month. Minimum wages which must form the basis of determining minimum income per head, and also for determining financial assistance in all cases.*
- 2. Universal coverage: Universal coverage of social protection may be extended by way of instituting similar social protection systems for the profit sector as well as survival sector. Profit sector may include all enterprises with any computerised system of production and services and engaging five and above workers, and those without any computerised system of production and services and engaging 10 or more workers. Survival sector may include all other units and all workers (including all self-employed workers) not included in the profit sector. Parallel to ESI and EPF applicable to profit sectors, Workers' State Insurance (WSI) and Workers' Provident Fund (WPF) may be instituted for the survival sector.*
- 3. Decentralised welfare boards may be formed for all sections of workers in the survival sector, and is to be financed by: i) minimum contribution from workers; ii) cess from enterprises; iii) CSR fund applicable on enterprise in that sector; and iv) government funding. WSI and WPF may be financed by the welfare boards and may extend the same benefits to workers as that of ESI and EPF.*
- 4. Welfare boards may also come out with special schemes to enhance sustainability of self-employed occupations.*

8.1 Basic Social Protection: Meant for Survival with Ability to Face Normal Contingencies

8.1.1 Minimum Wage and Minimum Income

- i) The minimum wages must form the basis of determining the minimum income to be ensured to all families/individuals. The criteria for determining the minimum wage is based on minimum needs for

survival; hence the minimum wage must form the basis for the poverty line, and thereby also for determining the financial assistance to be provided to cover the shortfalls in income of relevant individuals/households.

- ii) The existing poverty line cap needs to be disbanded as it is not only absurd but also shameful. The poverty line politics of the state has now become a data game to show great declines in poverty rather than actually focusing on decreasing poverty. The Tendulkar Committee in 2011 defined the poverty line cap on the basis of monthly spending on food, education, health, electricity and transport, and amazingly he arrived at such a low figure as INR 27.2 per day per head (INR 2,448 per month for a family with three consumption units) in rural areas and INR 33.3 per day per head (INR 2,997 per month for a family with three consumption units) in urban areas. However, during the same period (2011–12) a committee headed by former reserve bank governor C. Rangarajan estimated it to be INR 32 per head per day (INR 2,880 per month for a family with three consumption units) in rural areas and INR 47 per head per day (INR 4,230 per month for a family with three consumption units) in urban areas. The lower value was more suited to the government and hence in 2014 Rangarajan Committee Report was not accepted and the poverty line was estimated on the basis of the Tendulkar Committee formula, primarily because the Rangarajan Committee formula was resulting in 100 million more poor than that arrived by the Tendulkar Committee formula. A new survey is launched to repeat the futile exercise of arriving at the current poverty line (see Economic Times, 21 February 2020; Hindustan Times, 6 May 2015; Patnaik 2016).
- iii) The definition of minimum wages has two aspects: a) it must be a living wage, i.e., sufficient to meet the minimum requirements of a family of three consumption units; and b) it must be a fair wage, i.e., not less than what workers of same skill categories get in other sectors. The first aspect requires a well-defined criteria for determining minimum wage by considering all relevant expenses of family; and the second aspect requires that minimum wages are comparable in all sectors; and by implications, the principle of fair wage may also require that the wages in no sector and no state may be less than the national average minimum wage (arrived at by taking average of minimum wages in all states) in particular skill categories.
- iv) The accepted criteria for determining minimum wage includes: a) food: 2,700 calories per day per consumption unit for three consumption units (two adult and two children); b) 66 meters cloth per year per family or 22 meters per adult and 11 meters per child; c) housing rent equal to 10% of total expenses in food and clothing; d) expenses in fuel, electricity and other miscellaneous items equal to 20% of minimum wage; and e) expenditure for children education, medical requirements, recreation and contingencies equal to 25% of minimum wage (see GOI 2020).
- v) This criteria has four major problems: a) considering two children as one consumption unit is unjustified as the food expenses (including milk at least) on children are not less than the adult; b) housing rent (for at least one room with attached kitchen and washroom) currently costs about 30%–40% of minimum wages, and considering it only 10% of expenses on food and cloth results in very low minimum wage, which in turn compels the workers to live in unhealthy conditions, i.e., 4–5 workers sharing a small room without kitchen and washroom; c) the criteria does not consider the new necessities, for example, regular expenses on transport and communication, which may not be less than 10% of minimum wage; d) periodic revision of minimum wages largely takes in to consideration only inflation-related aspects, which is not justified as it ignores the new needs and right to share the benefits of economic growth that they bring with their sweat and blood. Hence the periodic wage revision must take three aspects into consideration: a) inflation-related aspects; b) new needs; and c) to GDP growth.

- vi) Even when we consider the existing criteria of minimum wage determination, the total value comes to around INR 18,000 per month, which is also justified by the union government's own calculations using the same criteria, as reflected in the declaration of minimum wages in the central sphere to be INR 18,000 per month in 2016. Hence the minimum wages declared (both national floor wages and state wages) do not satisfy the principle of living wage. As well, there are huge variations in minimum wages of various states, and between minimum wage in the central sphere and that in the states. The minimum wages for workers in private sector in various states range from less than INR 6,000 to less than INR 11,000 for unskilled workers and from less than INR 8,000 to less than INR 12,000 for skilled workers; except in Delhi where minimum wage for unskilled workers is INR 14,805, and that of skilled workers is INR 17,924 per month. In the central sphere it is INR 18,000 per month. Hence the minimum wages declared in various states does not satisfy the principle of fair wage. In order to satisfy the principle of living wage and fair wage, the wages anywhere in India may not be less than INR 18,000 per month.
- vii) The process of declaration of minimum wage has also a major problem in that it declares only the total value of minimum wage arrived and not the per head values arrived, and therefore the whole process lacks transparency. It becomes more important to declare per head expenses if the minimum wages are to form the basis for determining the minimum income required for survival of a family or an individual, and hence also for determination of the financial assistance that needs to be extended to cover the shortfall in income. In cases where people live in their own dwellings, the financial assistance for family/individuals may be minimum wage minus house rent; in case of financial assistance to individuals the per head values of items need to be arrived on the basis of item-wise expenses arrived in minimum wage for three consumption units.
- viii) By implication, in order to enable the people crossing the poverty line and empower them to be able to avoid falling in poverty, the government needs to: a) include all people up to the income level of double the minimum wages in to the PDS system for getting necessary goods at subsidised rate and number of goods distributed by PDS needs to be increased to cover at least the major necessities; b) exclude all people up to the income level of double the minimum wage from all direct and indirect taxation. It is shameful that even the people struggling for survival bear the burden of huge indirect taxation. The country collects only 6% of GDP as direct taxes and the rest of taxation falls on the indirect taxes which are paid by everyone, including the poor and marginalised working people (Kumar 2020). It is further shameful that the people earning the minimum wage are compelled to pay direct taxes, i.e., income tax, for example, payment of income tax is compulsory with an annual income above 250,000, and by this criterion the workers earning minimum wage in Delhi state and those engaged in the central sphere are compelled to pay income tax. It is further shameful that the workers are compelled to pay income tax on withdrawal of their social security funds (provident fund and gratuity).
- ix) PDS system must be re-conceptualised as a major initiative for boosting the economic growth with double dynamics, helping the poor to move out of poverty and thereby expanding the consumer market and accelerating the industrial growth; and helping the small-medium farmers, relevant small industrial units, own-account/self-employed workers and workers' cooperatives by providing an ensured market for their products through procurement on minimum support price for distribution through PDS. Hence PDS may play a great role in accelerating economic growth, and may also play a great role in helping large sections of the population move out of poverty.
- x) Competitiveness based on maintaining low wages is an absurd idea both theoretically and practically; however, in any situation, if there is any absurd need for keeping the wages low for so-called competitiveness of industries, it can be done in only three ways: a) covering all workers in

PDS system and covering most of the items of daily necessities of workers in subsidised system of PDS; b) large-scale initiative for government industrial housing schemes in all localities to ensure decent accommodation to workers on cheaper rent; and c) expanding and strengthening free quality public education for working class children and expanding ESI hospitals or other comparable health systems to cover all workers. The reduced expenses in these items may necessarily lead to lower monetary value of the minimum wage according to the above criteria.

- xi) Social protection for workers is greatly hampered due to inefficiency of the labour department and labour adjudication machinery. Justice delayed is justice denied. This is mainly because of lack of sufficient staff due to: a) no proportional addition of staff even after huge industrial expansion; b) allotting additional work on the same staff, for example, the work related to construction workers' welfare boards; and c) not filling the vacancies for years. In these conditions the workers are not able to avail even the existing provisions of social protection. Urgent initiatives are needed: a) the government must fill up the vacancies immediately and recruit additional staff proportional to increase in the number of establishments and the workforce under its coverage; b) the labour department must be focused only on implementation of labour laws, and all other works need to be withdrawn from the labour department; for example, separate institution and staff need to be created for each and every occupation-based welfare board of workers and it must not be mixed with labour department; c) the functional units of labour department must be set up as block/taluka level for easy access to local workers; and d) in order to ensure effective social protection, it is necessary to add a legal provision mandating conciliation and adjudication to be completed within a fixed time limit; the time limit for conciliation may not be more than a month and time limit for adjudication may not be more than a year (four months in labour court, three months in high court, three months in supreme court and two months of grace period). In case of delays, the worker needs to be sufficiently compensated by the government.

8.1.2 Universal Coverage of Quality Social Protection

All workers earning up to double the minimum wages, irrespective of economic sectors, size of enterprises, and status of employment must be provided all basic social protection benefits. The manner and the level of various social protection benefits may vary but no one must be excluded on the basis of any kinds of caps and thresholds. Basic social protection benefits may include: i) ensuring minimum wages/incomes to all workers and any shortfall in incomes of any section of workers must be covered by the financial assistance; ii) financial assistance for short-term loss of income due to short-term job/livelihood loss, accidents, diseases, etc.; iii) maternity/fraternity benefits and creche facilities (to all, irrespective of wage/income level); iv) coverage in PDS system; v) coverage in ESI or equivalent system of subsidised and quality public health services (and not in any private health insurance); vi) coverage in EPF and EPS or equivalent system of quality retirement benefits (and not in a downgraded system like NPS); vii) coverage in gratuity and bonus; viii) access to free quality public education; ix) access to accommodation on subsidised rent; x) access to free training for skill enhancement; xi) easy access to low-interest loans for occupational and personal needs from banks; xii) access to subsidised inputs for self-employed workers and workers' cooperatives in various sectors; and xiii) access to a social protection system with a major role of workers' representation in policy making and implementation.

8.1.3 Right to Organise and Collective Bargaining

Right to organise and collective bargaining is the basic foundation of ensuring social protection to workers. Hence, the Trade Union Act and the structure of social protection systems must be designed in

such a way to facilitate, promote and empower the workers to be able to exercise their right to organise and collective bargaining. The following initiatives may be required to strengthen this dynamic:

- i) Bringing back the provision for requirement of only seven members for registration of union.
- ii) Incorporating a new provision in Trade Union Act to provide that trade union may be deemed to be provisionally registered after successfully filing an online application and generating a receipt of the same. Provisional registration must provide protection to the office bearers from any action of retrenchment for at least one year. If no queries/responses are received from the registration authority within seven days of filing the online application, then it is to be deemed that the union has been successfully registered.
- iii) A legal provision needs to be added in the Trade Union Act to clearly state that self-employed/own-account workers can also form their trade union in the same way; as in global value chains, self-employed/own-account workers form a significant proportion of workforce, typically facing exploitation at lower ends of the value chain.
- iv) Incorporating a new provision in the Trade Union Act to provide that: a) in case there is only one trade union in a company/establishment, then it automatically becomes authorised for collective bargaining and the employer is compelled to sign collective bargaining agreements with union; b) in case of multiplicity of unions, the majority union must automatically become the main collective bargaining agent and the employer is compelled to sign collective bargaining agreements with this union; however, it may be made necessary for the majority union to conduct a formal meeting with other unions for getting their inputs on various issues to be addressed in the collective bargaining agreements; the majority union may also be advised to form collective bargaining council including willing unions, whenever possible and necessary; and c) the same may be true for the process of selecting the collective bargaining agent or the representative union in case of sector/industry unions, for collective bargaining with industry associations, workers' welfare boards and the government, and for representation in various relevant platforms/policy bodies.
- v) The system of trade union membership verification for granting Central Union status and to recognise representative trade unions at national and state level to ensure representation of trade unions in relevant state, national and international bodies/forums, etc., must be extended to district level to transparently recognise and ensure representation of trade unions in relevant boards/policy bodies/forums at district level, for example in various welfare boards.
- vi) Trade union registration authority must be transformed into facilitating authority, and in case of any shortcomings in application, they must be required to help the workers in order to be able to complete application and get the union registered. Maximum period for the registration process may not be more than a month.
- vii) Registration authority for trade unions must be transferred to the district labour office. Currently it rests with a division office, which compels workers to travel for verification requirements, which results in loss of time and money.
- viii) Social protection systems for informal sectors must be occupation-based systems, which may create the environment to promote, facilitate and empower workers to be able to exercise their right to organise and collective bargaining.

8.2 Contingent Social Protection

Normal kinds of risks and contingencies need to be covered by basic social protection systems, and the contingent social protection must deal with long-term contingencies, such as: i) unemployed youth; ii) long-term

loss of jobs/livelihoods of workers due to retrenchment/closure of factories, natural calamities, etc.; iii) long-term loss of incomes due to temporary disability/long-term diseases/major injury; and iv) permanent loss of income due to superannuation without retirement benefits, permanent disability, and death of earning member of family.

All youth entering in labour market and all working people, irrespective of economic sectors, size of enterprises, and status of employment must be provided all contingent social protection benefits; the manner and the level of various social protection benefits may vary but no one must be excluded on the basis of any kinds of caps and thresholds. The social protection measures for the unemployed youth and workers facing long-term loss of jobs/livelihoods may be in the nature of a combination of three kinds of initiatives: financial assistance, employment generation and skill development. Social protection measures for those facing permanent loss of income due to old age, death of earning members or permanent disability may be in the form of pensions. Social protection for those facing temporary or permanent disability due to occupational diseases/accidents may also include a compensation for the disability. The financial assistance in all cases must be based on the principle of ensuring the minimum income as discussed in earlier sections.

8.2.1 The Systems of Social Protection to Extend Quality Social Protection to All Workers

On the basis of conditions of different sections of workers and the principles of social protection as emerged in above discussions, the following four systems of social protection may be needed to extend quality social protection benefits to all working people:

8.2.2 Social Protection System in Profit Sector

- i) The social protection system in profit sector may cover the establishments with five and above workers, using any kind of computerised systems in production (including manufacturing, cultivation, plantations, mining, etc.) and services (including all services: financial, transport, trade, IT, tourism, recreation, education, health, etc.); and establishments with 10 workers or more without computerised systems of production and services. For practical problems the establishments solely working in construction and seasonal sectors (running up to six months in a year) may be excluded from this social protection system. It is to be emphasised that power or no power can no longer be justified as a dividing line between establishments, as there are rarely any establishments left that do not use power-driven machines.
- ii) The 'worker' here includes all categories of workers, including: regular workers, casual workers, fixed-term workers, and apprentice workers, etc. without any caps/thresholds.
- iii) The current system of engaging workers through contractors is unjustified and largely illegal. Going by the definition of contract worker under the Contract Labour (Regulation and Abolition) Act, 1970, contract workers cannot be engaged in perennial activities. At most, they can be engaged in loading and unloading work, and then they may not be working only for one company, but for many. Any worker regularly working in the company cannot come under the definition of contract labour. In fact, for the days and hours they are engaged by the company they can be treated as casual workers. Hence the contract worker category must be abolished.
- iv) All the workers must be covered under the Code on Industrial Relations, Code on Wages, and Code on Safety and Health and Working Conditions. Just to emphasise, the apprentice workers may also have the right to join the trade union of the company for the apprentice period. Casual workers may be automatically considered as members of the company union for the days working in the company, without paying membership fee, and the union must be made duty bound to enlist them as its member and help them in availing their rights.

- v) All workers need to be provided formal contracts, including casual workers. If any worker is found working in any company without a formal contract, the employer (owner/relevant management personal) may be liable to a fine of INR 50,000 per worker or identified or three months of prison sentence.
- vi) All workers must be paid minimum wage and a premium rate of overtime, and if any employer is found violating these laws, they may be liable to a fine of INR 25,000 per worker per day so identified to have been engaged.
- vii) All workers need to be covered under ESI, without any thresholds/caps; and all workers except casual workers need to be covered under PF without any threshold/caps.
- viii) All workers, except casual workers, may be covered under payment of gratuity, earned leaves (annual leave), paid casual leaves, bonus, and premium rate of wages for overtime.
- ix) All workers except casual workers, must be provided maternity/fraternity benefits, and creche facilities. In case of units with less than 50 workers, there may be a provision of common creche facilities for adjacent establishments.
- x) Number of casual workers may be limited to a maximum 3% of workforce for maximum three days in a month, and they may be paid at 1.5 times of the normal rate of wages; if any employer is found violating these laws, they may be liable to a fine of INR 25,000 per worker per day so identified to have been engaged.
- xi) Number of fixed-term workers may be limited to a maximum 5% of workforce, and must be specially meant for any temporary need of workforce for any additional task that cannot be addressed by the regular workforce. It means that a company/establishment cannot make engaging fixed-term workers a regular practice. If the additional task becomes a regular task, then the fixed-term workers may have the right to be absorbed as regular workers. The wages and working conditions of the fixed-term contract workers may be the same as the regular workers, including applicability of relevant allowances paid to regular workers. Fixed-term workers may be paid a special allowance equal to five days wages per month of engagement if their engagement ends after the end of contract period and if their contract is not transformed into a regular contract. If they are fired before the expiry of contract, the employer must be required to pay additional 15 days wages. In this light, engaging fixed-term contract workers by government and private bodies in regular kind of employments must be declared illegal and banned, and all fixed-term workers engaged in health (doctors, nurses, ASHA workers, etc.), education (teachers and other staff in schools and universities), municipalities (sanitation workers, etc.), transport, communications and in regular kinds of jobs in manufacturing and various other industries, must be regularised with immediate effect.
- xii) The system of outsourcing practices needs to be regulated: a legal provision needs to be enacted mandating formal annual contracts, rather than work order-based contracts, with all terms and conditions, between the companies, local or foreign, outsourcing their work and the establishments working for these companies. This may apply to all regular kinds of work related to manufacturing and services; only in cases of occasional nature of jobs the work order-based contract (with all terms and conditions) may be allowed. The terms and conditions must transparently show the labour costs. For the establishments working completely or mainly for other companies, the main outsourcing company or companies (foreign or local) may be considered as the principal employer for all practical purposes. Accordingly, the formal contracts issued to the workers must mention the name of the principal employer(s). If the principal employer is a local company, then the workers of the relevant establishment may also have the right to join the trade union in the principal employer.

- xiii) In establishments with 100 workers or more the government permission must remain mandatory and it must be made mandatory for the government to decide on such cases only after organising a tripartite consultation. In case of establishments with fewer than 100 workers, it must be made mandatory for employers to cite valid and verifiable reasons with evidence for retrenchment, follow the principle of last come first go, and the workers must be given right to challenge the justifications cited by the company and the process of retrenchment.
- xiv) Provisions of unemployment allowance under ESI need to be reframed according to new needs in new conditions. Rajiv Gandhi Shramik Kalyan Yojana 2005 and Atal Beemit Vyakti Kalyan Yojana 2018 need to be merged to create unified Unemployment Allowance Scheme with provisions including: a) workers insured in ESI can avail an unemployment allowance of 80% of wages for a total of 1,095 days (three years) in their lifetime, and they may claim it for different periods in different years as per their needs; b) the worker becomes eligible to claim the unemployment allowance after three months of insured period with minimum 20 days of contribution per month before job loss; c) after completing three months of insured period, worker can claim unemployment allowance of 80% of wages for maximum 10 days in case of job loss; after completing six months for 15 days, after completing one year for one month and after completing three or more years worker may be eligible to claim unemployment allowance for a maximum of two months at a stretch (unemployment of more than two months at a stretch may be considered long-term unemployment). The worker may claim this allowance whether the job loss is due to dismissal/retrenchment or resignation; this is precisely because in current conditions, in most of the sectors, the employers force the workers to resign, rather than dismissing or retrenching them in order to avoid all legal procedures and the payment of compensations involved. Moreover, the worker may also be allowed to claim the unemployment allowance of 100% of wages for the whole period of temporary closure of establishments for various reasons like the pandemic; and as this may be an additional financial burden, the ESI may claim 50% of this cost from government and 50% from employer.
- xv) ESI contribution rates must not be reduced, as reducing the economic capacity of ESI may be disastrous for the workers. ESI hospitals/dispensaries are already crowded and overloaded and therefore need to expand their infrastructures. Moreover, in the above discussed framework, the ESI membership may be doubled and hence there may also be a need to expand the ESI facilities. Therefore, ESI contribution rates must be maintained at the existing rate of 1.75% of wages from employees and 4.75% from employers, as against the revised rate of 0.75% and 3.25%. The PF contribution rates must also not be reduced, as it may affect the retirement benefits of the workers. It must be maintained at 12% from both employer and employees, as against the revised rate of 10%. In PF law a provision must be introduced to allow the workers to draw 50%–75% of their accumulated funds in a crisis like the pandemic.

8.2.3 Social Protection in Survival Sector

- i) The social protection system in the survival sector may cover all establishments and workers not covered under the social protection system of the profit sector. This may include workers of establishments with less than five workers using any kind of computerised systems of production (including manufacturing, cultivation, plantations, mining, etc.) and services (including all services: financial, transport, trade, IT, tourism, recreation, education, health, etc.); and establishments with fewer than 10 workers without any computerised system of production and services. This may also

- cover the construction and seasonal sectors excluded from the social protection system in the profit sector due to practical problems of implementation.
- ii) The 'worker' here includes all categories of workers with an income level of double the minimum wage, including: regular workers, casual workers, fixed-term workers, apprentice workers, own-account workers, self-employed producers, etc. without any caps/thresholds.
 - iii) Provisions related to minimum wages/incomes, payment of wages and overtime rates may be the same as in the profit sector.
 - iv) Provisions related to formal contracts and engagement of casual workers and fixed-term workers may be the same as in profit sector, except that casual workers may be engaged on normal rate of wages (not 1.5 times of wages) and special allowance for fixed-term workers may be three days wages per month if their engagement ends with the end of contract period and if it is not transformed into a regular contract; and they may be paid additional five days wages if they are fired before the expiry of contract.
 - v) The social protection system may offer most of social protection benefits offered to the workers in profit sector, but with a different institutional dynamic, by way of creating decentralised occupation-based workers' welfare boards operating at district levels with functioning units at village panchayat/urban local body/industrial area levels, and coordinated at state level. The state governments may create state level bodies of workers' welfare boards in order to coordinate and provide required support for the functioning of these boards, and most importantly, to align the state policies related to particular sectors with the workers' welfare boards. However, there is no need for any centralised body of welfare boards at national level, as this may create more problems than resolve any. The logic of a national body of welfare boards is gaining ground particularly from the problems faced by migrant construction workers. As they are registered in home state but work in many other states, they are not able to claim benefits in the states where they work, hence the logic of 'one nation one card'; however, this does not add any value, as making the state cards portable and coordination between welfare boards at source and destination states serves the purpose. This problem does not arise in case of any other section of workers, as the local and migrant workers both are covered in the welfare boards of the state where they work.
 - vi) The management of workers' welfare boards may be based on a tripartite system constituted by proportionate representation of employers, workers (with proportionate representation of wage workers, self-employed/own-account workers) and the government. All establishments and the workers in the sectors need to be necessarily registered in the welfare boards and no establishments may be permitted to operate without registration in the welfare boards.
 - vii) The financing of the workers' welfare boards may be based on: a) cess of 1% of the annual turnover from all enterprises in survival sector in particular economic sectors; b) cess of 0.5% from all enterprises in profit sector in particular economic sectors, as the profit sector enterprises are benefitted from survival sector; c) workers' contribution may be fixed at 7.75% of applicable minimum wages for unskilled workers; 1.75% for a health scheme equivalent to ESI; and 6% for a scheme equivalent to EPF; and d) any shortfalls covered by the state government.
 - viii) All Corporate Social Responsibility (CSR) funds from enterprises may also be provided to the welfare boards of respective sectors.
 - ix) The state government in collaboration with all workers' welfare boards must establish a Workers' State Insurance Corporation (WSI), which may be equivalent to ESI, with same system of hospital networks, same responsibilities and extending same benefits to all workers registered in all welfare boards, with an exception that unemployment allowance for construction workers and seasonal workers may be fixed as a standard compensation of 80% of minimum wages for two months in a

- year. The studies need to be conducted to articulate the needs and accordingly fix the eligibility criteria for unemployment allowance to self-employed workers in different sectors. The workers' welfare boards may contribute to the WSI at the rate of 6% of minimum wage for unskilled workers for all workers registered in the board; of this 1.75% of minimum wage may be coming from workers contributions and 4.75% of minimum wage may be coming from the cess fund.
- x) The state government in collaboration with all workers welfare boards must establish a Workers' Provident Fund (WPF), which may be equivalent to EPF, with same systems and same benefits to the workers. The workers' welfare board may contribute a total 24% of applicable unskilled minimum wage to Workers' Provident Fund for all workers; of which 6% of minimum wage may be coming from workers and 18% of minimum wage may be coming from the cess fund.
 - xi) There may be a provision that workers' registration in WSI and WPF may not become inoperative if they fail to deposit contributions up to one year; within one year they may be given options to deposit contributions in any time intervals. Their registration may discontinue and so also the benefits after failing one complete year; but they may also be given the option to continue it anytime by starting paying their contributions.
 - xii) The boards may take initiatives to create a system of common facilities in clusters of survival sector units and own-account/self-employed workers; for example, common facilities of creche, canteen, restrooms and first aid, etc.
 - xiii) In collaboration with the state government the boards may also take initiative to develop modern common infrastructure for different clusters of units/self-employed workers for compliance of occupational health and safety, and also to reduce costs by facilitating a system of shared costly machinery (that are necessary but not used continuously) and shared power infrastructure, etc.
 - xiv) Wherever possible, the board may also take initiative for creating a common system of enrollment for wage workers in particular clusters, particularly in case of manufacturing, so that they may easily get jobs when in need and units may easily get workers when in need. The system of common enrollment of wage workers may also be helpful in providing formality of jobs and related benefits like paid casual leaves and annual leaves, and even the bonus and gratuity (may be at lesser level than in profit sector), and the economic burden for all this may be shared by the cluster of units collectively in proportionate amounts.
 - xv) There may also be a need to re-articulate the provisions of industrial relations, payment of wages and health and safety according to the structural conditions and needs of the survival sector.
 - xvi) The registration cards of construction workers must be made portable, and they may be made eligible to claim the relevant benefits from the construction workers' welfare board of any state where they may be present at the time of need. The paying welfare board may be duty-bound to send the details of benefits availed by the workers to the board where the worker is registered. No other evidence/documents may be asked from workers for availing benefits in any state, other than their registration card issued by the welfare board of the relevant state.
 - xvii) Seasonal workers may be allowed to avail the benefits from any other board in their vicinity at the time when they are unemployed or working in some other sectors during off-seasons.
 - xviii) The welfare boards may conduct studies to articulate the particular nature of policies and support needed to strengthen particular survival sectors. Welfare board units working at the level of panchayats/urban local bodies/industrial area must be recognised as the main centres for articulating and proposing the relevant policies according to the local needs; on the basis of these inputs district welfare boards may articulate the needs of particular sectors in particular districts and send recommendations to the state government. The state governments in turn must align its policies for different sectors with the recommendations received from the district welfare boards.

There may be certain general needs of all sectors in all regions, for example low-interest loans to small units and interest-free loans to self-employed/own-account workers, and subsidised inputs and ensured market for their products. However, there may be certain specific needs of particular sectors and particular regions that can be identified only by a bottom-up approach in policy making.

8.2.4 Social Protection for Unemployed Sections

The social protection for unemployed youth and those workers facing long-term unemployment beyond that which is covered under ESI and WSI require the following initiatives by the state governments:

1. The employment exchange centres need to be established in every district, with functional units at each municipality in urban areas and at each block in rural areas, along with in each industrial area, and in each university. Any unemployed youth (15 years and above) who have stopped formal studies and any worker facing long-term employment (more than two months at a stretch) may be required to register in any of these employment exchanges. The employment exchange may maintain online sector skill-wise data of workforce in need of employment, and the data of all employment exchanges in the country may be linked and accessible to employers anywhere in the country. It may be made mandatory for all establishments to send their requirements to the district employment exchange, even when they may also be allowed to advertise the vacancies elsewhere, so that employment exchanges may be able to help and facilitate the workers in applying for jobs. All applicants to any job may be required to mention their employment exchange registration number, and after they are engaged the employer may be required to duly inform the employment exchange, so that unemployment data is regularly updated.
2. Employment exchange may organise relevant skill development training for relevant youth/workers facing unemployment.
3. The financial assistance (equal to minimum income) must be provided to all those registered in the employment exchange until they get employment. The employment exchange may also make it mandatory to attend skill development training in order to get financial assistance.
4. In order to make the economic burden of financial assistance more fruitful, the state government may also include the unemployed in NREGA, and may also devise an urban employment guarantee scheme and involve the unemployed people in those works at least for certain periods. The employment exchange may also facilitate the engagement of educated youth in various government surveys, like National Sample Survey (NSS), census, etc. This may have triple benefits: a) reduce the burden of financial assistance; b) reduce the burden of non-teaching work by government school teachers who are generally engaged in such works; and c) help the educated youth acquire precious skills.
5. The financing of this social protection may be solely based on state funding.

8.2.5 Social Protection in Pension Sector

If all working people with wage/incomes up to double the minimum wage are covered in the above system of social protection for the profit sector and survival sector, then most of the workers may be retiring with some pensions. However, the pension amounts may not be enough for survival for the majority of workers; as the pension (EPS) under EPF (which may also be the same under WPF for survival sector) = (pensionable salary * pensionable service) / 70; i.e., if pensionable salary is 10,000 and pensionable service is 28 years, then pension may be only 4,000 per month. Moreover, the large majority of the workforce is not allowed to complete even five years of continuous service due to employers' strategy of frequent hiring and firing to deny social security benefits associated with longer periods of service. Apart from this, even if the workers facing permanent disability or widows of workers who died due to accidents or occupational disease, are provided with some monthly assistance, in most cases it is very low. Moreover, there are significant numbers of people born with

disabilities. All these sections of people must be covered under the social protection for pension sector. All the people falling under this category may be provided financial assistance equal to minimum income as discussed in above sections. In case of people getting some pension under the EPS or WPS or financial assistance through ESI, the shortfall in income must be covered by the financial assistance. In case of children born with disabilities, the government may extend free education and health services and individual financial assistance according to the minimum income concept discussed in earlier sections, until they are able to get a job and start earning; and for their whole life to those who may not be in a position to do any work. The financing of this social protection may be completely based on state funding.

Conclusions

Covid pandemic powerfully exposed the alarming levels of miseries and vulnerabilities of the workers and hollowness of social protection systems. It revealed that the wages are so low that majority of them have absolutely no savings and they are not able to survive without wages even for a month. On the other hand, social protection systems are not even able to insure their mere survival, at any event of crisis. The workers were compelled to take loans for survival and majority of them fell into a debt trap. The lack of organisation of workers further aggravated the problems as they were not able demand and protect their legal rights, and majority of them were not even able to get the benefits of the welfare schemes implemented by state during pandemic. Another major problem relates to housing; 3-5 workers live in small un-ventilated rooms without kitchen and 4-5 such rooms share a washroom; in such conditions it was impossible to follow the norms of social distancing. Access to health services was disrupted by pandemic which further aggravated the problems. There is an urgent need to review the social protection systems and formulate a more inclusive and effective social protection policy to extend effective protection to workers in any event of crisis, based on past experiences, and good practices. The social protection policy must be aimed to extend protection to all workers, including both formal and informal workers, in terms of insuring: a) minimum wages/incomes; b) the right to collective bargaining; c) housing, health and education; d) Financial assistance in times of crisis to cover the shortfall in incomes; e) Unemployment allowance to insure them minimum income; f) compensation for workplace accidents and for loss of livelihoods/incomes; and g) Pension to those not in position to work or retired. There is a need for state policies for covering all workers with incomes equal to double the minimum wage in public distribution system, subsidised housing, health and education facilities, and they must be exempted from any direct taxation. The benchmark social protection system implemented for formal workers in formal sectors, and covering most aspects of social protection, needs to be extended to all workers irrespective of any kind of caps. This system may be extended to informal sector workers through the institutionalisation of occupation based welfare boards.

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