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Working Paper

Organizing the invisible: Strategies of informal garment workers in Mumbai

Global Labour University Working Paper, No. 47

Provided in Cooperation with:

The Global Labour University (GLU)

Suggested Citation: Gross, Tandiwe; Kharate, Amar (2017) : Organizing the invisible: Strategies of informal garment workers in Mumbai, Global Labour University Working Paper, No. 47, International Labour Organization (ILO), Geneva

This Version is available at:

<https://hdl.handle.net/10419/189834>

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Working Paper No. 47

May 2017



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Organizing the invisible – strategies of informal garment workers in Mumbai

Tandiwe Gross
Amar Kharate

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Layout: Harald Kröck

ORGANIZING THE INVISIBLE – STRATEGIES OF INFORMAL GARMENT WORKERS IN MUMBAI'S SLUM ECONOMY

Tandiwe Gross
Amar Kharate

This case study is part of the Global Labour University research project on the role of trade unions in curbing precarious informal employment. The project was implemented in 2014 and included 10 case studies from nine countries. The integrative report "From 'precarious informal employment' to 'protected employment': The 'positive transitioning effect' of trade unions" that analysed all the case studies can be found at: http://www.global-labour-university.org/fileadmin/GLU_Working_Papers/GLU_WP_No.42.pdf.

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First published 2017

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ISSN: 1866-0541 (print) ; 2194-7465 (PDF)

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ABSTRACT

Dharavi in the heart of Mumbai is home to an estimated 1 million people and of the biggest slum economies in the world. With 86% of India's total workforce working in the informal sector, this paper sheds light on the working and living conditions of a section of this invisible workforce as well as their collective struggles and organizing strategies for a more decent life.

The empirical findings suggest that despite massive barriers to organising, informal garment workers develop innovative strategies to gain victories both vis-à-vis employers and the state by organising collectively. The entry point are workers' identities as women and citizens and their struggles around domestic violence, harassment housing and public services. For many workers the trade union membership card gains importance as the first written proof of identity and the support of the collective serves as a protection against violence at home and in the community.

In the absence of legal protection, this paper finds that trade union organizing is indispensable for combating rights violations and building bargaining power for increasing income. It also shows that social protection schemes, where they cover informal garment workers, are only effective if workers organize collectively and pressure the state for effective access.

The paper shows how trade unions as collective organizations of informal economy workers can be key agents to support the effective delivery of state services and contribute to the transitioning of workers from informal to more protected employment.



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1. MAGNITUDE AND TRENDS OF INFORMALITY AND PRECARIETY IN THE INDIAN LABOUR MARKET

1.1 Definition of informal (non-standard) employment and measurements of informality

In India, several definitions of the informal sector and the informal economy exist. In 2004, the Government of India established the National Commission for Enterprises in the Unorganized Sector (NCEUS) with a mandate to examine the situation of workers and enterprises in the informal economy and develop policy recommendations. According to the NCEUS, the informal – or unorganized – sector includes “all unincorporated private enterprises owned by individuals or households engaged in the sale and production of goods and services operated on a proprietary or partnership basis and with less than ten total workers” (NCEUS 2007: 3).¹ The NCEUS goes on to define workers in informal employment as workers labouring in the informal sector as well as workers who labour in the formal sector but do not receive any employment or social security benefits from the employer (NCEUS 2007: 3, 5).

In this sense – in line with the definition adopted in this research project – the NCEUS measures informal employment based on a worker-centred definition according to the degree of individual employment security, work security and social security of a person, as opposed to traditional sector-bound definitions which link informality only to the size of an enterprise or the self-employment status of a worker. Furthermore, the NCEUS defines all agricultural activities as part of the informal economy, with the exception of plantations and other forms of organized agriculture.

The second authoritative definition of informality is provided by the National Sample Surveys Office (NSSO) of the Government of India, which regularly conducts statistical surveys on informal employment in India. According to the NSSO, the informal sector consists of unincorporated enterprises owned by households, for example proprietary and partnership enterprises including cooperatives of informal producers (NSSO 2014: 48). The present study focuses on the informal sector² – if not specified otherwise, defined by the NCEUS as “all unincorporated private enterprises owned by individuals or households engaged in the sale and production of goods and services operated on a proprietary or partnership basis and with less than ten total workers” (NCEUS 2007: 3) - while the

¹ Operated on a proprietary or partnership basis means that these enterprises do not constitute legal entities separate of their owners: all liabilities of the enterprise are covered entirely by the owners (Naik 2009: 3).

² This paper uses the term “informal worker” to refer to workers in the informal sector to facilitate the flow of reading. This formulation by no means intends to categorize the workers themselves as being “informal” but only refers to informality in their work context

case study by Baljeet Yadav in this volume concentrates on informal employment in the formal sector.

1.2 Size of informal employment

The latest and most comprehensive official measurement of informal employment dates from 2004-2005: it shows that 92% of India's total workforce (475 million people) is engaged in informal employment, which leaves only 8% in formal employment relationships (NCEUS 2007: 1). Out of that, the informal sector accounts for 395 million workers, or 86% of India's total workforce (NCEUS 2007: 21).

In 2009-2010, the informal sector, as per the International Conference of Labour Statisticians (ICLS), defined as unincorporated enterprises owned by households - accounted for 67.5% of informal employment outside agriculture, while 16.8% of non-agricultural employment inside the formal sector was informal (ILO 2012: 4). Looking at the NSSO 2011-2012 data, Chandrasekhar (2014: 2) has used the threshold of enterprises with 10 or more workers if using power and 20 or more workers if not using power to define the informal sector.³ According to this definition, the informal sector accounted for 81% of all non-agricultural employment in 2011-2012 (Chandrasekhar 2014: 2). More specifically, 86% of workers in the private sector and 50% of workers in the public sector outside agriculture were employed in the informal sector (ibid).

The real size of the informal sector can be estimated to be even higher, as the NSSO definition of the informal sector covers only the non-agricultural sector and the agriculture sector, excluding growing of crops (AGEGC): this sector includes all agricultural-related activities excluding crop production, plant propagation and combined production of crops and animals. These excluded categories, however, provide employment for around half the Indian workforce and are overwhelmingly informal (Rakmini 2014).

Using the NCEUS criterion of eligibility for social security benefits, the magnitude of informal employment is vast: According to the NSSO survey 2011-2012, 72% of all employees in the non-agricultural and AGEGC sectors were not eligible for any social security benefits (NSSO 2014: iv, v). Informal employment relationships are particularly widespread in the form of contract work⁴, an employment relationship in which the workers are not directly employed by the company for which they work, but by an external party serving as a contractor (IndustriAll 2012). In the formal sector, contract workers receive vastly inferior wages when compared to the regular workforce and the work mostly without any social security and employment benefits (Handique 2009; IndustriAll 2012). It is

³ This definition is based on the Factories Act, 1948, which will be explained in more detail in chapter 2.

⁴ In India, contract work always involves an external contractor who supplies the workers to the principal employer. Workers who are directly employed by the principal employer on a fixed-term contract are referred to as temporary workers. See <http://ilera2012.wharton.upenn.edu/RefereedPapers/KolipakkamRangaraoShyamSundar.pdf> (page 2).

estimated that in 2014, 55% of all workers in the public sector and 45% in the private sector were employed as contract workers (Sharma 2014).

1.3 Distribution of informal employment

Outside agriculture, manufacturing, construction, wholesale and retail trade, transportation and storage constitute the biggest employer in the informal sector (NSSO 2014). In 2009-2010, 97% of employment in construction and trade was carried out by workers in informal employment relationships, followed by a share of 87% in manufacturing and 84% in transportation (ILO 2012: 20). The NSSO report (2014: iii) finds that 73% of the informal sector workforce in rural areas and 75 % in urban areas are employed in these industries. Within the informal sector workforce in the non-agricultural and AGEGC sectors, the biggest degree of workers are self-employed (57 % in rural areas and 57 % in urban areas), followed by casual labourers (32% in rural areas and 16% in urban areas) and regular wage employees (11% in rural areas and 27% in urban areas) (NSSO 2014: ii). Out of those informal sector enterprises that hire workers, small-scale units dominate: 75% of informal sector workers are engaged in enterprises with less than 6 workers (NSSO 2014: iii).

Looking at the gender aspect, the share of female, informal employment in total employment activity is overwhelming in all the highly informal sectors: 99% in construction, 97% in trade, 87% in manufacturing and 65% in transportation (ILO 2012: 20). Informal workers within the formal private sector – casual workers, contract workers, *badlis*⁵ and apprentices – are primarily employed in construction firms, manufacturing companies and export houses low down in the value chain (Deshingkar 2009). In the public sector, informalization is increasingly on the rise through the large-scale use of contract workers, a trend which is explored more in depth in the case study of Baljeet Yadav in this volume.

1.4 Trends in the growth of the informal economy in the last 5-10 years and contribution to GDP and employment generation

The Indian economy has undergone major restructuring after the economic reforms of the early 1990s which were characterized by large scale liberalization and privatization. However, the expected effects on formal employment did not materialize: from 1992 to 1994 employment in the formal sector increased only by 0.36% against a target of 2.6%, while the largest job growth occurred among the self-employed which are overwhelmingly informal (Sinha 2004: 128). In the period following the economic reforms, employment generation was concentrated in the informal sector. From 1999-2000 to 2004-2005, 98% of employment growth was generated in the informal economy (comprising workers in the informal sector and informal workers in the formal sector), with the

⁵ A *Badli* is a worker employed on the post of a permanent worker who is temporarily absent. Section 25e of the Industrial Disputes Act defines a *badli* workman as “a workman who is employed in an industrial establishment in the place of another workman whose name is borne on the muster rolls of the establishment [...]”.

total number of workers in the informal economy growing from 362.8 million to 420.7 million (Sundar 2011: 7). This growth trend is also visible in the period from 2004 to 2012 with regard to employment generation outside agriculture. According to Chandrasekhar (2014: 2), the informal, non-agricultural sector⁶ generated 24.2 million new jobs from 2003 to 2012 while the formal, non-agricultural sector generated only 18.9 million new jobs during the same period. A closer look at the developments between 2009-2010 and 2011-2012 also reveals that the share of workers, outside the core agricultural sector, who are engaged in the informal sector, has risen from 74 % in 2009-2010 to 75 % in 2011-2012 in rural areas, and in urban areas from 67 % to 69 % (NSSO 2012; Chandrasekhar 2014).

While in 2011, the total number of contract workers in the country stood at 36 million (Sen 2011), their number is estimated to have gone up to 80 million in 2014 (Sharma 2014). The rise of contract work translates into an informalization of the workforce as most contract workers do not receive any social security benefits and receive significantly lower pay (Handique 2009; Sharma 2014). The informal sector – here defined as all unincorporated enterprises – is estimated to account for 50% of India's GDP (Mishra and Shankar 2014: 6).

1.5 Factors contributing to the expansion of the informal economy

The magnitude of the informal economy and in particular the informal sector in India is linked to various factors. Historically, the economic policies from 1948 to 1991 provided large incentives for setting up small-scale enterprises through fiscal concessions and reservation policies⁷ (Uppal 2006; Devaraja 2011). The numerical threshold defining the applicability of most labour laws further contributed to the expansion of the small-scale informal sector: most Indian labour laws, such as those relating to workplace conditions, pensions and health benefits, paid annual leave notice period and severance pay are only applicable to enterprises with 10 or more workers (if they operate with electricity) or 20 or more workers (if they operate without power) (Hensman 2000; Panagariya 2006). This numerical threshold sets up incentives for employers to escape from the provisions of labour regulation by splitting production into small units, outsourcing into small-scale enterprises in the informal sector or by employing a large number of contract workers which do not appear on their payroll.

After 1991, the economic liberalization policies further deepened the duality of the Indian labour market. As Sundar (2011) shows, the post-liberalization period is characterized by a labour market profile which promotes labour market flexibility. With the rise of competitive pressures in a more liberalized and globalized

⁶ Here defined as enterprises with less than 10 workers if using power and less than 20 workers if not using power.

⁷ Under a system of reservations for the small-scale industry (SSI) sector, the production of certain products such as garments and toys was reserved exclusively to the small-scale sector.

economy, formal enterprises have increasingly sub-contracted production into the informal sector (Bhomwik 2007: 292; Moreno-Monroy et al. 2012: 21).

Chandrasekhar and Ghosh (2013) argue that the large size of the informal sector may partly be explained by the fact that it serves the needs of the formal sector by providing a cheap and flexible infrastructure (e.g. transportation and catering) which reduces the costs for large formal sector industries and service providers. Finally, Sen (2012) highlights the impact of the economic reforms on productivity in the formal sector as a driver for further expansion of the informal sector. He argues that contrary to common beliefs, the economic reforms of the 1990s – abolishment of industrial licensing, reduction of tariffs and scaling back of small-scale reservation policies - deepened the dualism between the high productivity, regulated formal segment and the low productivity and highly precarious informal segment within India's manufacturing sector. Both Sen (2012) and Kathuria et al. (2013) find that the reforms actually resulted in widening the productivity gap between informal and formal manufacturing enterprises, making it more difficult for the informal enterprises to compete with formal sector enterprises⁸. This competitive disadvantage creates little incentives for informal sector enterprises to formalize, as they would not be able to compete on the basis of productivity once they lose the advantage of higher labour exploitation and tax evasion offered by the informal sector.

1.6 Social protection coverage of workers in informal employment

Since social security comes under the concurrent competence of the Central and State governments, there are various social security schemes for workers in the informal sector at the state and central level. Most of the social protection schemes in the India are implemented along the terms defined by the official poverty line: persons living below the official poverty line are referred to as part of the BPL (Below Poverty Line) category.

Based on Large Sample Surveys on Household Consumer Expenditures of the NSSO, the official poverty line is set by the Planning Commission, an advisory body of the Government of India. As of July 2014, the poverty line suggested by the Planning Commission stands at Rs. 32 (0.53 USD) per capita in rural areas and Rs. 47 (0.78 USD) in cities. For a family of five, this amounts to an average monthly consumption expenditure of Rs. 4,860 (81 USD) in rural areas and 7,035 (117 USD) in urban areas (Planning Commission 2014).⁹ Being only slightly higher than the earlier poverty line of Rs. 27 in rural areas and Rs. 33 in urban areas set in 2011-

⁸ The reforms targeted the overall economy with the idea of creating a more level playing field between the formal and the informal sector through increasing competition by eradicating licensing fees and abolishing reservation policies for the small-scale sector, but the productivity gains were mainly located in the formal sector, see Kathuria et al. 2013: http://www.isid.ac.in/~pu/conference/dec_11_conf/Papers/RajeshRajSN.pdf

⁹ The conversion to USD is calculated as per the yearly average exchange rate of 60 INR to USD in 2014 (Oanda 2015).

2012, this new poverty line has been sharply criticized by poverty experts for being unrealistically low (Singh 2014; Ghosh 2014).

The following overview focuses on the major social security initiatives by the central government as defined by the Unorganized Workers' Social Security Act of 2008 and the subsequent initiatives. While not adding any new social security schemes, the Act mandates the establishment of social security boards at the central and state government level for providing advice and monitoring regarding the implementation of social security schemes for informal workers (Goswami 2009). The Act also lists the existing central laws for social protection of informal workers which are summarized in the following.

The *Indira Gandhi National Old Age Pension Scheme* (IGNOAPS) entitles all persons who are living below the poverty line (BPL) and are older than 60 years to a monthly pension of Rs. 200, while BPL-persons above the age of 80 years are entitled to a pension of Rs. 500 (8.33 USD) per month (Gol 2014). *Rashtriya Swasthya Bima Yojana* (RSPY) is a health insurance scheme which provides a cashless health insurance policy which covers hospitalization expenses of up to Rs. 30.000 per year and Rs. 100 per hospital visit for BPL families. The beneficiary BPL family, counted as a unit with 5 family members, annually contributes Rs. 30 as a registration and renewal fee. Beyond BPL families, the scheme has been extended to cover certain categories of workers such as construction workers, street vendors and domestic workers regardless of their status below or above the poverty line (ibidem). The *Aam Admi Bima Yojana* (AABY) scheme provides for death and disability insurance for rural landless households paid by the Central and State Governments. It insures the head of the family or one earning family member with an amount of Rs. 30.000 in the case of natural death and Rs. 75.000 in the case of death or permanent disability due to an accident (ibid).

In 2013, the former *Jansahree Bima Yojana* (JBY) which provided life insurance for natural or accidental death and disability to rural and urban persons, in 46 trades, who are below or marginally above the poverty line, was merged into the AABY (The Hindu 2013). The *National Family Benefit Scheme* (NBS) entitles BPL families to a compensation of Rs. 10.000 in the case of the natural or accidental death of the primary breadwinner of the family. The compensation is paid under the condition of an age range of 14-64 and a substantial contribution of the deceased family member to the total family income (Gol 2012). *Janani Suraksha Yojana* (JYS) is a maternity health scheme which entitles all pregnant women older than 19 years of age, and belonging to BPL households, to cash assistance to support institutional delivery in a government-run health centre, as well as to pre- and postnatal care by government-accredited health workers for up to two live births (Gol 2011). Moreover, workers employed in certain occupations such as handloom weavers, fishermen and *beedi* workers are eligible for specific social security benefits under a number of occupation-specific laws and welfare funds (Gol 2014a).

Further social security schemes established and updated after the enactment of the Unorganized Workers' Social Security Act of 2008 include the *Indira Gandhi National Widow Pension Scheme* (IGNWPS), which entitles widowers below the poverty line and within the age range of 40-64 years to a monthly pension of Rs. 200; the *Indira Gandhi National Disability Pension Scheme* (IGNDPS) provides a cash assistance of Rs. 200 per month to persons below the poverty line with severe or multiple disabilities in the age group of 18-64; and *Annapurna*, which entitles BPL persons more than 65 years old to 10 kg of food grains free of cost (Gol 2012a). Furthermore, in recent years a co-contributory voluntary pension scheme for all workers in the informal sector (Swavalamban)¹⁰ and subsidies relating to healthcare, construction of houses and school/college education have been established (Gol 2014a). Other forms of social security assistance include the provision of subsidized food grains to BPL households under the *Public Distribution System* (PDS)¹¹ and Employment Programmes such as the *Mahatma Gandhi National Rural Employment Guarantee Act* (MGNREGA) which entitles the adult members of every rural household to at least 100 days of paid work in projects specified under the Act, or in the absence of work, to unemployment allowance.

In addition, there is a multitude of state-level social security schemes targeting different sections of the population. However, both at the central and state level, India's social security legislation for the informal sector largely targets "the *poor* rather than *workers*" (Routh 2013: 24) with large problems of implementation and access: according to national surveys, 50% of India's poor are not on the BPL lists, barring their access to the respective social security schemes, while 60% of the people on the lists are not actually poor (Parulkar 2012).

1.7 Unionization rate and collective bargaining coverage of informal workers

The legal requirements of trade union registration are defined by the Trade Unions Act of 1926, which is applicable both to informal and formal workers (Routh 2013: 21). A reform of the Act in 2001 established that half of the union officers of a registered trade union in the 'unorganized' sector can be outsiders

¹⁰ Under this scheme the Central Government contributes Rs. 1,000 per year to each subscriber who contributes a minimum of Rs. 1,000 annually (Gol 2014a).

¹¹ The PDS is a system of distributing subsidized commodities (rice, wheat, sugar, cooking oil and cooking fuel) to ration card holders through local *ration shops*. With the enactment of the National Food Security Act, 2013 the coverage of the PDS system is extended to 63.5% of the Indian population, with priority groups being eligible for receiving 7kg of subsidized food grains per month while the rest of BPL households is eligible to 3kg (Parulkar 2012). However, the system does not only distribute goods of vastly inferior quality (adulterated food grains mixed with stones), but is also subject to large implementation problems: in all of India, 31% of the food grains and 36% of the sugar designated for the PDS system is diverted towards the black market (Bhowmik et al. 2013: 200-202).

who are not employed in the establishment or in the industry (as compared to 1/3 for trade unions in the formal sector).¹²

Looking at the history of the Indian trade union movement, it has been noted that the established trade union federations have largely ignored workers in the informal economy for a long time (Sinha 2004; Gillan et al. 2009; Bhowmik 2007). According to Sundar (2006), this started to change only in the 1980s. Based on the post-independence era dominated by state planning and a regulated economy, the traditional power base of the major trade union federations consisted of a strong membership in the public sector and in major industries of the formal sector and strong linkages to political parties.

Especially with the increasing liberalization and privatization after the 1990s leading to an erosion of traditional membership in the public sector and weakened political influence, the established trade union federations started to focus more on organizing workers in the informal economy (Gillan et al. 2009). However, organizing successes in the informal economy are much more difficult to achieve as this statement from a union leader illustrates: “In the organized sector, 20% work gets 90% result. In the informal sector 90% work gives 10% result” (Ratnam 2000: 70).

The latest official figures on the unionization rate in India date from 2002 and cover only the verified membership data of the national federations recognised by the governments as Central Trade Union Organizations (CTOs). In 2002, the verified unionization rate stood at 6.3% out of a total workforce of 303.7 million (Suhl-Ahn 2010: 12). According to these figures, informal workers accounted for 42.27% of the total of 24.88 million trade union members (ibidem: 13). However, as a huge portion of the informal workforce is migratory and fluctuating, complicating verification by the government, these figures need to be read with caution. In total, the number of verified trade union members in the informal sector stood at 7.645 million in 2002 (ibidem), which roughly represents a unionization rate in the informal sector of 2.06% taking into account a total informal sector workforce of 369,755 million workers in 2000 (ILO 2002: 34). The membership share of informal sector workers within the five largest CTOs varies from 4.1% in case of the Centre of Indian Trade Unions (CITU) to 42.7% within the All India Trade Union Confederation (AITUC) (Suhl-Ahn 2010: 13). The membership figures claimed by the CTOs in 2013 are currently verified by the ministry of labour (Menon 2013).

Besides these established trade union centres, a number of organizations with different legal status have emerged around the concern of workers in the informal economy (Routh 2013). While there is a large number of non-governmental organizations (NGOs) working on issues concerning informal workers, there is a relatively small number of membership-based organisations and out of these an even smaller share consists of trade unions (Antony 2003).

¹² The Act leaves it to the government to specify by notification any sector that may be considered “unorganized”, see Trade Unions (Amendment) Act 2001, 22 (1).

Examples of membership-based organisations include the well-known Self-Employed Women's Association (SEWA), which was registered as a trade union in 1972 and today has a membership of 1,9 million (SEWA 2014); it is recognised by the government as a CTO.

In general, trade union organizing in India operates in a context of frequent and widespread intimidation and employers' use of anti-union tactics and violence against trade union members and workers demanding their rights; this may take various forms ranging from transfers, harassment and dismissals to physical violence by hired private security guards and death threats (Handique 2009; Pratap 2011). In some cases, state institutions actively support the interests of capital, for example by not accepting workers' complaints to the police or by refusing the registration of trade unions (Handique 2009; CFA 2013). This environment of fear and insecurity is a significant obstacle to effective trade union organizing, especially among workers in informal employment.

2. THE LEGAL AND REGULATORY FRAMEWORK DEALING WITH INFORMAL EMPLOYMENT

This chapter focuses on the regulation of labour in the informal sector, using the NCEUS definition of unincorporated enterprises with 10 or less employees. The regulation of informal labour within the formal sector will be explored in the case study by Baljeet Yadab in this volume.

With industrial relations and labour welfare falling under the concurrent list of the Indian Constitution, India has more than 45 central labour laws and 170 state statutes relating to labour (Deshingkar 2009). At the central level, the regulation on the use of informal labour is primarily determined by the number of workers employed in a workplace (NCEUS 2009). The Factories Act (providing for payment of overtime at double rates, standards relating to occupational health and safety, provision of canteens, childcare facilities, restroom and first aid facilities) and the Employees State Insurance Act (ESI) which provides for health insurance, are only applicable to enterprises employing 10 or more workers if using electricity and 20 or more workers if not using power. The Employees' Provident Fund & Miscellaneous Provisions Act (PF) ensures a basic pension for workers which only covers enterprises with 20 or more workers.

In terms of laws covering workers in the informal sector, the NCEUS distinguishes three categories of labour laws enacted by the central government. The first category includes laws which apply to all sections of informal sector workers, such as the Equal Remuneration Act of 1975, and the Bonded Labour System (Abolition) Act of 1976 (NCEUS 2007: 155). The second category comprises those labour laws which apply to some groups of informal sector workers. These include laws which cover only a prescribed category of workers, such as the Motor Transport Workers' Act of 1961 (Routh 2013: 22). Another important regulation falling into this category is the Minimum Wages Act of 1948, based on

which the central and state governments can set minimum wages for certain occupations, including workers in the informal sector.

Minimum wages can only be fixed for industries employing more than 1000 workers (NCEUS 2009: 179), which excludes a significant number of workers. In terms of implementation, the central or state governments “may appoint” inspectors for the enforcement of minimum wages (Saget 2006: 11). Especially in the informal sector however, enforcement is very poor (Saget 2006; Goswami 2009). Furthermore, the payment of Wages Act of 1936 is only applicable to factories covered by the Factories Act of 1948, which means that workers in small-scale informal sector enterprises cannot take legal action to enforce the payment of wages.

Finally, the NCEUS identifies a third category of labour regulation which originally applies only to the formal sector, but can, by government order, be extended to any group of informal workers (Routh 2014: 61). This category includes, for example, the Contract Labour (Regulation and Abolition) Act of 1972, which regulates the use of contract workers within the premises of the enterprise using contract labour. Nevertheless, the Contract Labour Act explicitly excludes workers who are hired by an intermediary and perform work for an enterprise, but who are not working within the premises of that user enterprise (Sankaran 2012). This means that sub-contracted home-based workers are excluded from the scope of the Act. In addition, there are a number of state-level labour laws, but those cover only a small section of informal workers in the country (NCEUS 2009: 163). In sum, it is widely conceded that workers employed in the informal sector are mostly excluded from protective labour legislation (NCEUS 2009; Sankaran 2012; Routh 2013). It has also been noted by the NCEUS (2009: 181) that in cases where informal sector workers are covered by protective legislation they are unable to access that protection due to poor enforcement (NCEUS 2009: 181). Given the focus of most labour legislation on the existence of an employment relationship, self-employed workers, as the largest category of workers within the informal sector, are especially overlooked (Routh 2013).

The new national government, in office since May 2014, has announced large scale reforms of the countries’ labour regulation, parts of which are likely to have a huge impact on the protection of workers. The reform proposals include a provision to change the definition of small enterprises from currently 10 employees to 40 employees, which would exempt all enterprises with 40 or less employees from key labour laws such as those on working conditions, overtime, health and safety at the workplace, minimum wages, health insurance, pension, maternity benefits, and industrial disputes (Jagannathan 2014). 58% of all factories reported to be operating in India in 2011-2012, employed up to 30 workers (Surabhi 2014), and as such a large number of workers are likely to be heavily affected by these changes. For enterprises with 40 or less employees, the government suggests a new regulation according to a bill entitled the “Small Factories (Regulation of Employment and Conditions of Services) Bill of 2014 (Jagannathan 2014).

3. CHARACTERISTICS OF INFORMAL GARMENT WORKERS

Having explored the trends, characteristics and regulatory context of the informal sector in India, this case study explores the particular situation of informal garment workers and their strategies of collective organization and mobilization through the trade union *Learn Mahila Kaamgar Sanghathana* (LMKS) and the labour NGO *Labour Education and Research Network* (LEARN) in Mumbai. The case study is based on field research carried out in November and December, 2014, in Mumbai: key informant interviews were carried out with four trade union activists¹³ responsible for garment factory and home-based workers in LMKS Mumbai, as well as with the former president,¹⁴ the current president and the organizing secretary of the union, a union activist in Solapur, the union secretary in Nashik and the chairperson of LEARN. In addition, field validation interviews were undertaken with two home-based garment workers and two informal garment factory workers who are all members of the union. Documentation of union meetings, baseline data collected by the union activists, as well as the website of LEARN and existing literature on the two organizations served as additional sources of information.

3.1 Employment-related trends

The textile and garment industry¹⁵ in India directly and indirectly employs more than 45 million people: it is the country's second largest employer after agriculture (Ministry for Textiles 2013: 35). Looking at employment structures, Pratap (2012: 2) describes the garment industry as one of the sectors with "almost complete informalisation of the work force with only a tiny section of formal workers". The latest sector-wise analysis providing information on the percentage of informal workers in the garment sector dates from the NSSO 2005 data, according to which 88.7% of workers in the textile industry and 92% of workers in the garment industry were employed in the informal sector (Hirway 2010: 175). The share of home-based workers in the garment industry grew from 48.8% in 1993-1994 to 53.7% in 2000-2001 (Hirway 2010: 179).

Over time, different factors have contributed to the expansion of informal workers in the industry, as shown by Tilly et al. (2013). After independence, India's state policy was focused on import substitution, leading to a refusal of the government to modernize the traditional textile mills by importing capital and technology. Capital therefore started to accumulate in the emerging power-loom sector, consisting of unregulated small-scale workshops, many of them sub-

¹³ In the context of LMKS, the term union activists refers to the paid staff members of the union.

¹⁴ At the time of the interview the elections of the executive committee of LMKS was going on; the key informant was the president of the union from 2012-2014.

¹⁵ While products such as towels and bed-covers fall under the purview of textile, the garment industry covers apparel and related accessories (Singh 2009).

contracted by the textile mills. In this context, the numerical threshold for the applicability of most labour laws was a major factor in preventing the formalisation of the workers: in order to avoid labour and tax regulation, powerloom owners split their production into smaller units with less than 20 workers. The regulatory environment hence played a major role in pressurizing employers to remain in the informal, small-scale industry sector (Hirway 2010).

While the textile mills sector gradually declined after the 1980s, the subsequent integration of the Indian economy into the world market with the 1991 economic reforms further contributed to the growth of informal employment in the sector. The large network of small-scale factories, which developed in the post-independence era, became readily available sub-contractors for larger factories in emerging export-oriented garment production (Tilly et al. 2013). With subcontracting being “officially endorsed in the recommendation of the Indian National Commission of Labour...which recommended the use of contract work in view of uncertain demand from global markets” (Sen and Dasgupta 2009: iv), the economic reforms therefore reinforced the amplitude of informal labour in the garment sector.

Today, production in the Indian textile and garment sector mainly consists of small-scale factory¹⁶ or home-based production for the domestic market, and exporters of garments who operate in large, formal-sector factories (Tilly et al. 2013). Even garment exporters in the formal sector, however, compete on the basis of informalizing employment relationships both in the factory premises and through outsourcing to the informal sector (Hirway 2010). Contract work has emerged as the dominant pattern of employment in some pockets of the export-oriented garment industry: for example in the National Capital Region around Delhi, where more than 80% of garment workers are non-permanent (Verite 2010: 5) and in Tirupur, where more than 90% of garment workers are working on contract (Mani 2011: 11). Furthermore, formal sector garment exporters have subcontracting relationships with a large number of smaller firms in the informal sector. These small-scale producers, supplying to the exporters, represent a large middle segment with thousands of firms. They either produce in small informal workshops or sub-contract production to home-based workers (Damodaran 2009, Hirway 2010). With the boom of the garment industry in the early years of 2000, outsourcing of orders by large garment manufacturers have led to a growth of small-scale garment units in urban slums (Bhattachariya 2014).

3.2 Demographic characteristics

In Mumbai, there are two major categories of informal garment workers who are organized by LMKS: those employed in informal garment factories, and those who work as home-based workers. Employment in informal garment factories is dominated by men (60%), while home-based garment work is almost 100%

¹⁶ The NSSO (2014: iii) defines smaller enterprises as those with less than 6 workers. These enterprises absorbed around 75% of rural informal sector workers and 70% of urban informal sector workers in the survey carried out in 2011-2012 (ibidem).

female (Interview garment union activists). 70% of informal garment factory workers are inter-state migrants from economically poorer states such as Uttar Pradesh or Bihar, while most of the workers belong to lower castes. The age of workers varies from 25 to 35 years, while half of the workers are Hindu and the other half Muslims (ibidem). Similar to informal garment factory workers, most home-based garment workers are migrants from Uttar Pradesh or Bihar. In terms of religion, they are predominantly Muslim or Hindu, while home-based work is not particularly dominated by lower castes. Their age ranges between 12 years to 35 years; after that age the eyesight becomes too weak for the detailed work with needles and threads. Both in home-based and garment factories, most workers have undergone schooling until the age of 10 to 14 years (Interview home-based union activists).

3.3 Types of job and characteristics of employment relations

While informal garment factory workers are engaged in activities such as cutting and preparing layers for cutting, attaching buttons, cutting threads, stitching, and packing, home-based workers mainly work on hand-made and machine-based embroidery, sewing and attaching hooks and buttons. Home-based workers can be classified into two sub-categories. The first group work as self-employed micro-entrepreneurs for individual customers. People in the second group work for a piece-rate under a sub-contracting system: these workers receive work from factories, mostly through contractors who supply them with material. They are commonly referred to as industrial outworkers or homeworkers (Chen 2006).

Most home-based garment workers are women who have to take care of their household which means that they cannot afford to leave home for a long time in order to get the material. This leaves the majority of home-based workers largely dependent on the contractors who often exploit this position of power: As the home-based union activists of LMKS explained, the contractors sometimes “don’t give the money once their work is finished. They also adjust the money here and there when the calculation is done”. In other cases, contractors pay arbitrarily different piece rates for the same work in order to increase their profits. Competition among home-based workers is high as workers are ready to work at extremely low wages for getting orders (Interview home-based worker No. 1). Some workers take loans from the contractor when they are in urgent need of money – for example to cover health expenses – which they pay back little by little through their work; this further increases their dependency on the contractor (Interview home-based worker No. 2).

Home-based work is furthermore characterized by a strong degree of employment insecurity, as the demand for garment-related work fluctuates according to seasons. During high seasons of religious festivals there is a lot of employment, while workers take up other home-based work such as hand bracelets and artificial jewellery during the slack season or work as domestic workers (Interview home-based union activists; Gartenberg 2011). Employment

relationships in informal garment factories are characterized by a complete lack of written contracts and employment security. Workers are employed under the constant threat of dismissal if they speak up to demand their rights, for example regarding the payment of overtime wages or against sexual harassment on the shop floor level.

3.4 Employment and working conditions

According to the garment union activists, unskilled workers, engaged in activities such as thread cutting, buttoning and packaging in informal garment factories, earn Rs. 4000 (66 USD) per month, while the minimum wage in Maharashtra for unskilled workers in the ready-made garment industry stands at 6873.30 (114 USD) (Paycheck 2014). Skilled work such as stitching and cutting are paid at a piece-rate and are exclusively carried out by men, who can earn up to Rs. 15,000 (250 USD) to 18,000 (72 USD) per month, which is high above the minimum wage of Rs. 7073.30 (117 USD) for the category of skilled workers (ibidem). Some workers face illegal deductions from wages, for example if they accidentally make stains on the material they work on. Delays in the payment of wages are common. Working hours vary according to gender. While women, who are employed on a monthly wage-basis, have regular working hours of 9 hours per day, men usually complete their piece-rate work during working days of 10 to 11 hours per day (including one-hour lunch break). During high season, male workers do forced overtime of up to 14-16 hours per day. Since men work on a piece-rate, they are paid for the number of pieces on which they work, but women who work on a fixed monthly wage are usually not paid for overtime work (Interview former union president). One garment factory worker reported that she is forced to do up to one hour of unpaid overtime every day, while in average she is forced to work on 3 Sundays per month. To compensate for the work on Sunday, she gets other days off, but these days are unpaid.

None of the workers receives any form of social security benefits at the workplace. In case of accidents, workers receive no or only a minor compensation and are dismissed from work. Harassment, molesting and verbal abuse are common, especially towards women by other male workers (Interview former union president). Workers suffer from backache and eye pain, as well as headache due to a high level of noise at the workplace. Injuries and pain in the hands are common, as well as respiratory diseases due to dust which is created during the cutting process. Work pressure is high in order to complete the given production targets; sometimes workers are shouted at by the factory owners if they fail to complete their targets (Interview garment union activists).

Home-based garment workers report similar problems of eye, hand and back pain as well as respiratory diseases due to cotton particles in the air. In addition, home-based workers face serious space problems, as they live with their families of five to eight people in rooms of six to nine square meters. In this space they have to store material and work, while at the same time taking care of children if they are at pre-school age. In order to complete a higher number of pieces, many home-

based workers do not go to the toilet regularly which leads to problems such as urinary infections (Interview home-based union activists). In many parts of the slum there are open gutters, many of them clogged with garbage, which are located directly next to the houses of home-based workers, hence adding to their health problems (Interview former union president). Earnings vary from Rs. 32 (0.70 USD) to 200 (4.76 USD)¹⁷ for an 8-hour working day, depending on the type of work and the speed of the worker (Gartenberg 2011: 13-15; Interview home-based workers). Payment of wages is often irregular; in some cases the contractor gives workers only half the wages to which they are entitled (LMKS 2011). Depending on household responsibilities, home-based workers work for 4-10 hours per day, often until late in the night: “In the daytime they need to look after the children, wash clothes, cook food etc. After all this they find only 1-2 hrs. In the evenings if they finish cooking by 10 pm, they start making the piece and work until 12-1 am” (Interview former union president). None of the home-based workers is covered by any type of social security (Interview home-based union activists).

4. ORGANIZATION AND REPRESENTATION

Learn Mahila Kaamgar Sanghathana (LMKS) organizes home-based workers, informal garment factory workers, domestic workers, waste pickers and street vendors in three districts of Maharashtra: Mumbai, Nashik and Solapur. The union has 5,800 members in total, out of which Mumbai is the stronghold with 2,540 members, followed by Nashik with 2,360 members and 900 members in Solapur (Interviews union president, union activist Solapur, union secretary Nashik).

Since Mumbai is the centre of the trade union’s activities, this case study focuses on the strategies which particularly address the concerns of informal garment factory workers and home-based garment workers in Mumbai. In Mumbai, there are 450 union members who work as home-based garment workers while 200 union members are employed in informal garment factories. Whereas the membership among home-based garment workers is entirely female, half of the members in informal garment factories are male (Interviews home-based and garment union activists).

4.1 Type of organization or structure

In 1998, a group of trade unionists and university professors from Mumbai decided to work together to provide support to existing trade unions and encourage the formation of new trade unions in the informal sector through training programs and research. Starting out with labour research projects in the university context, the labour researchers and trade union activists subsequently decided to institutionalize their work by setting up a non-governmental organization. With this objective, the *Labour Education and Research Network*

¹⁷ The conversion to USD is calculated as per the yearly average exchange rate of 46 INR to USD in 2011 (Oanda 2015).

(LEARN) was registered as a non-governmental organization (NGO) in the year 2000.

After a few years of providing training on labour rights and trade union strategies for trade unions and non-unionized workers in the informal sector, the labour activists of LEARN realized that while Mumbai had a large number of NGOs, there were not many trade unions in the informal sector. It was therefore decided in 2006 that LEARN should also actively support the setting up of a new trade union of informal sector workers, focusing on women workers in vulnerable sectors.

The trade union was named *Learn Mahila Kaamgar Sanghathana* (LMKS) and started building membership in different districts of Maharashtra; by 2010 it was active in five districts which allowed it to register as a state-level trade union. Even though registration of trade unions is not mandatory in India, LMKS was registered as a trade union, in 2010, under the Trade Unions' Act of 1926. According to the chairperson of LEARN, this particular form of organization was chosen because it enables formal representation in negotiations with the government as well promoting organizational stringency through the obligation of submitting returns to the registrar of trade union and holding regular elections. The formal registration as a trade union may thus enhance the setting up of formal structures and processes within the organization.

LMKS engages in data collection, organizing and mobilizing for collective action, while LEARN has a supporting function through building networks with other civil society organizations and raising funds for programmes such as the childcare centre for children of informal sector workers, health and eye camps and vocational and leadership trainings.

4.2 Processes and structures of representation and decision

LEARN consists of a general body consisting of university professors, labour lawyers, trade union activists and members of LMKS which elects a managing committee, that in turn elects the chairperson, secretary and treasurer of LEARN. The positions of secretary and treasurer of LEARN are currently held by members of LMKS, while the organizing secretary of LMKS is also a managing committee member of LEARN.

The structure of representation within LMKS is based upon groups of 20 union members per area (across occupational groups) who designate three committee members as representatives. Every two years, the committee members who are almost entirely female (also referred to as *area activists* within LMKS) elect the executive committee of the union consisting of the general secretary, the president, two vice-presidents and the treasurer as well as the paid union activists for the different sub-units of LMKS. In Mumbai, LMKS employs two union activists working for domestic workers¹⁸, two union activists for garment factory workers and home-based garment workers engaged in stitching and tailoring, two union activists working for home-based workers (including those engaged in garment-

¹⁸ One of them is also the president of the union.

embellishment work)¹⁹, and two activists working for waste pickers²⁰. In addition, LMKS employs one activist working on health-related issues, one for training programs and one for the union's childcare centre. In Solapur, the union employs seven union activists, while two union activists work in Nashik.

Once per month, the union holds area-wise meetings with the members in which work-related, social and community-level problems of the members as well as new initiatives of the union are discussed. If members are reporting problems, these are taken up in the weekly meetings of the union activists; here, all the union activists from the different sub-units discuss the strategies of the union as a whole. The strategies suggested by the union activists are then taken back to the members at the area level for building consensus on the steps to be taken.

4.3 Strategies used in organizing

In order to reach out to informal garment workers, a key organizing strategy of LMKS is to talk to workers during their tea or lunch breaks outside the factories. In the case of garment workers employed in informal factories, it is impossible for the union activists to interact with the workers at their workplace since they are not allowed to enter the factories. Visiting workers at their homes is also used as a strategy, often facilitated through existing members who tell the union activists where their friends live and ask them to visit their homes. However, for organizing new workers it has been found that sometimes home visits are not very effective: often workers are engaged in household work and taking care of their children which prevents them from concentrating on the discussion. Depending on the particular household situation, patriarchal structures also play an important role; in some cases, it was noted by the garment union activists that "in presence of her husband, she cannot listen to us".

The activists therefore identified the calling of workers to monthly union meetings at the community level in different areas as the most effective strategy, since they provide a platform for sharing information and discussion, in a concentrated manner and without disturbance from outside.

Another organizing strategy which LMKS has found to be successful is to conduct research on the working and living conditions of workers in the form of mappings with the help of LEARN. The collected information is organised and analysed, after which it is presented to the respondents in local languages with the help of audio-visual media such as power point presentations. In addition to respondents of the survey, other workers and union members are also invited to these result-sharing meetings so as to facilitate interaction among them. After sharing the results of the data collection, workers are encouraged to come up with collective solutions to the problems identified. Strategies are immediately formulated. These discussions are very powerful given that they also create a space for women to share their burden and not feel alone in their struggles (Interview with the organizing secretary).

¹⁹ These two activists are also the vice-presidents of the union.

²⁰ One of them is also the treasurer of the union.

Especially home-based garment workers often do not see themselves as *workers*, they think that it is the husband who earns the family income and they just contribute (Interview Bhowmik 2014). The strategy of data collection therefore fulfils the double purpose of a) building awareness that the home-based work in which they are engaged is actually *work* which should be carried out under adequate conditions and b) building a collective identity by using method of sharing results to make workers aware that they have similar problems even if they sit in separate houses scattered over the city.

Data collection is undertaken both at the level of the union activists who collect data on piece rates and working hours of members and at a larger scale through mapping studies. LEARN and LMKS undertook two mapping studies on home-based workers in Mumbai, Nasik and Solapur in 2011 and 2013. An interesting insight can be drawn from the experience of the 2013 mapping study on civic amenities and infrastructure available to home-based workers in Nashik and Solapur. To follow up with the results of the mapping, the union invited home-based workers and union activists as well as officials from the city administration of Nashik to a result-sharing workshop which should help to lobby the municipal corporation of Nashik to improve the situation. While none of the municipal office bearers attended the meeting, 40 home-based workers and union activists participated. Since it had unintentionally become a meeting of 'insiders' (workers and union activists), the sharing of results gradually led over into a discussion in which workers opened up about their personal and economic hardships which created a strong sense of collective identity and collective struggle (Interview organizing secretary).

Since many women workers engaged in the informal garment sector – especially those in home-based work - do not have a strong identity as *workers*, the union prioritizes organizing around problems of domestic violence and harassment both at the workplace and in public spaces which resonate strongly with the identities of female garment workers in the context of deeply-rooted patriarchal relationships. The union activists intervene in cases of domestic violence, talking to the family member(s) inflicting the violence or threats, and supporting the workers in finding solutions to domestic problems: "Many men beat up the women. If you are a member, the union comes and tries to make the man understand. Hence members have a lot of advantages" (Interview home-based worker 2). As the organizing secretary explained, the union activists do not discriminate between union members and non-union members; they intervene with equal sincerity if violence is inflicted upon non-union members. They also intervene if women workers face problems of sexual harassment at the area level by showing the union ID and warning the respective men that they will file a complaint at the police if the harassment continues. As the home-based union activists explain:

"We also tell them if you have any fight or conflict among women; then come and have a meeting. Take some information, people exploit women. We make them understand regarding domestic violence and

other issues. [...] We tell them if you know these things, you can help yourself. So you have to come to meeting to make yourself capable”.

Another organizing strategy is to reach out to workers on the issue of health. Because of the scattered location of the informal sector workforce, health and eye camps are used in order to reach out to a larger number of workers and encourage them to become members of the union. Health and eye camps are organized alternately every three months in different parts of Mumbai, providing free-of-cost medical check-ups by government doctors and the provision of medicines to both members and non-members of the union. These camps, organized in cooperation with public hospitals and charitable trusts, provoke a large gathering of workers in the area and are used as an instrument of outreach of the union, as the chairperson of LEARN explained: “So you have health camps with the idea obviously of helping them, but along with it also promoting the union [...] So we tell them this is the union, we don’t do this just like a charitable organization, we also have something for your own [organizing]” (Interview Bhowmik 2014). Furthermore, LMKS provides childcare and training facilities in order to address the demands of union members. In one of the union meetings, the lack of childcare facilities was identified as a major problem of the members, especially of domestic workers. A childcare center was set up accordingly, in which members could leave their children from 8am to 8pm, for a nominal fee for the provision of food and education. With the support of funds generated through LEARN, the union also offers vocational workshops, for example advanced tailoring classes for garment workers to increase their skills for better income generation, as well as English and computer classes for the children and adolescents of members. Capacity building workshops geared towards leadership development are also undertaken for the union activists.

When LEARN was founded in 2001, there was also the idea of promoting the creation of a workers’ cooperative to improve earnings and ownership of informal garment workers. However, while the idea was to set up a cooperative with different units functioning in the whole city of Mumbai, the laws governing cooperatives in India mandate that a cooperative set up at the city level can only operate within one ward²¹. The idea of forming a cooperative was therefore deemed as untenable (Interview chairperson of LEARN).

4.4 Factors that facilitated and factors that constrained union organizing and the initiative

An important facilitating factor for organizing is the fact that all the union activists themselves have been informal sector workers before: “[...] we know all the problems of home-based workers because we have faced the same. Since we have worked, we know all the problems” (Interview with home-based union activists). Similarly, the union activists working on health, training programmes and the childcare centres have been informal sector workers themselves, which is

²¹ A ward is an administrative unit which describes a sub-division within a city, usually for electoral purposes; Mumbai has 23 wards (Gartenberg, 2011).

a key factor in ensuring a grassroots perspective in the union work on health and training programmes.

At the same time, one of the biggest obstacles for organizing the largely female informal garment workers is the existence of patriarchal family structures. As the home-based union activists explained: “Before joining, they think a lot like whether they have to come in meeting or not, is it necessary to go into the protest. If I ask the family, they will say no, it’s not a good thing to join the union [...] So it is hard to convince all, 5 will join 5 won’t”. This is not only a problem for the members, but also for the union activists²²:

“They get beaten. [One of the union activists] went for a training once to Ahmedabad; her husband who is a construction worker they live at construction site. He said you want to go to training, you will go and sleep outside tonight so she slept on the road at that night. Even [another union activist’s] husband who does not beat her started beating her because there were two three times they had to stick around for union work until very late. So, [her] husband beat her up. It is not just that they came late, its piling up. [Another union activist’s] husband he cut her LMKS ID” (Interview organizing secretary).

In some cases, union members have to join the union secretly; in other cases, the union activists talk to the family members to convince them of the advantages of joining the union.

In the case of the union activist who was beaten by her husband, as cited above, the activists developed a strategy in which she pretended to her husband that she had resigned from the union work, which made him realize the financial implications of losing her salary. When he begged her to take her union job back, two other union activists came to her house and insisted on him to give a written confirmation stating that from now on he will not interfere in her union work and that he will never beat her again. He signed the confirmation and the problem did not occur again (ibidem). This case shows how the union has succeeded in countering patriarchal family structures by employing collective pressure and a strategy of formalization of the union work through a written agreement.

Another constraining factor for organizing is to find the appropriate timing of union meetings; they cannot be held in the evenings, because then workers are busy with household responsibilities. During day-time, home-based workers can come but garment factory workers do not get off for the meetings, and if they take off for the whole day they lose their payment for the day. The meetings are therefore held for 1 to 1 ½ hours at lunch time, so that the factory workers can come during lunch breaks. Furthermore, since informal garment workers are spread out over different areas in the city, the union activists find it difficult to reach out to those staying far away. Here, the role of active committee members at the area level is crucial for reaching out to workers in their area, and connecting

²² To protect the identities of the respective union activists, their names have been blanked from the original quote.

them to the union activists in case they face problems in which they want the union to interfere.

Finally, the partnership between LMKS and LEARN enables the union to access not only funding for supporting programmes such as the childcare centre and vocational trainings, but also a broad network of people who may otherwise not get in contact with informal sector workers. This includes, for example, a lawyer who volunteered for LMKS for 1½ years, university professors who provide training programmes and accountants who provide training and support on accounting (Interview chairperson of LEARN).

4.5 Challenges

The main challenge which LMKS faces is to re-vitalize the engagement of committee members at the area level and to ensure a solid and regular connection between the union activists and the members at the grassroots level. Until 2012, committee members from the different areas attended the weekly meetings of union activists, ensuring the connection between members and the leadership between the monthly area meetings. Over the last two years, however, the engagement of committee members has declined significantly as the union activists were concentrated on doing the paperwork for the access of members to the different social security schemes, intervening in individual member workplace-related or social problems and solving personal disputes among themselves (Interview with home-based union leaders). During the election process in December 2014, it was therefore decided to start a new initiative of re-activating the link between union activists and committee members: the union activists will be made responsible for different areas and to meet individually the respective committee members of “their” areas to enquire about the specific problems of that area and report back to the weekly meetings of union activists. In this new structure, the union activists would not be responsible for specific units within the union (such as the home-based unit, domestic workers’ unit, etc.) but for specific areas, hence focusing on territorial representation. Furthermore, it has been proposed that at every month’s end they should have “chain meetings” in which all the union activists go to all the areas to attend the monthly union meetings: through this process, all the union activists would stay more in touch with the members in different areas and resources and knowledge can be combined (Interview with the organizing secretary).

5. MIX OF STRATEGIES AND MEASURES THAT INCREASED THE PROTECTION OF INFORMAL GARMENT WORKERS

5.1 The role of collective bargaining

LMKS employs different strategies of collective bargaining based on the specific conditions of informal garment factory workers and home-based garment workers.

For workers in informal garment factories, the most pressing problems at the shop floor level include arbitrary dismissals, retention of wages, harassment and non-payment of overtime as well as non-payment of medical support in case of injuries. The power of factory owners and supervisors, especially over women workers, is immense, as they have very little structural power (Gumbrell-McCormick and Hyman 2013)²³ due to the unskilled nature of work in which they can easily be replaced.

In this context, the union activists intervene on a case-by-case basis of individual workers by accompanying the respective workers to the factory and talking to the owner. First, only two or three union activists intervene, while in serious cases or if the employer refuses to listen, all the 11 union activists go to the factory to speak with the owner along with the respective worker. In many cases this strategy has been successful, as the examples in chapter 5.5 will show. Even though in the current legal framework the employer cannot be legally forced to react to the union's demands, the reason why this soft negotiating strategy works is because it is facilitated by the associational power of a formally registered trade union. The formal identity card of the union, which shows its outreach, and the registration of LMKs at the state level play a major role in pressurizing the employer: "Then he can see the ID of the union and automatically understand. Because Nasik and Solapur's address is also there so he understands that our reach is till there. And the union registration number which on the ID" (Interview former union president). According to the former union president, having the union addresses of Nasik and Solapur is an important factor for showing the strength of the union through its geographical outreach. Similarly, the associational strength which the union has proven in protesting for the access to state services – outlined below - is a key factor in building bargaining power with the employers: "That they did after seeing the strength of the union. They were scared and thought that the women of the union are so bad that not only party but also the government cannot beat them that is why the employer got scared" (ibidem).

²³ Gumbrell-McCormick and Hyman (2013) describe structural power as the power deriving either from occupying a strategically important position in a production process which workers can use to disrupt the entire production process or from holding specific skills which are difficult to be replaced by other workers.

For home-based workers engaged in a sub-contracted relationship with factories, the union works, on the one hand, towards strengthening the bargaining position of home-based workers vis-à-vis contractors and factory owners through collective action, and on the other hand, towards generating employment and higher piece-rates through direct orders from factories and malls. If contractors cheat on workers, for example by retaining the entire wage if the worker has made a mistake in the finishing work of a product, the union activists negotiate with the contractors to pay at least half of the piece-rate (Interview home-based activists). Secondly, based on the collection of data on piece rates which are paid by the contractors in an area, the union identifies unequal piece rates which are paid for the same pieces and mobilizes members to stand together to demand an equal piece rate.

If the contractor refuses to equally pay the highest piece rate, workers collectively stop the work which puts pressure on the contractor as he has to ensure timely delivery of the order to the factory. In case the contractor refuses to bargain, this sometimes leads to the factory owner coming to the area directly to see why the order is not being completed, enabling the union members to negotiate with him about an equal piece rate. In this way workers are also able to develop a direct connection for future orders in which the contractors can be avoided. For most workers, however, it is difficult to establish and maintain direct individual order relationships with the factory owners, as they cannot travel far enough to pick up the material from the factories, leaving their household responsibilities and bearing the transportation costs. Furthermore, if workers go to the factory individually, they are given only a small quantity of material because the factory owner would not trust them with larger quantities, fearing that it might get stained or that the workers might “run away with it” (Interview home-based union activists).

In 2012, it was therefore decided, in a union meeting, that in order to increase employment security and increase the piece rate, the union should facilitate orders for the members from the factories. In this process, the union activists negotiate with the factory owners and distribute the work to the members in the different areas with the help of the committee members.²⁴ By avoiding the commission of the contractor, this enables the union members to get a piece-rate which is much higher than what they would get through a contractor: the piece rates facilitated through the union are two to four times higher when compared to the contractors’ rate (Interview garment factory activist, home-based activists, former union president).²⁵ While contractors take a commission of up to 80% on each piece, the union takes a commission of 20% which is used to pay for

²⁴ Note that only the quantities of material worked upon are laid down in writing, but not the entire terms and conditions as it would be the case in a normal formal contract.

²⁵ In some cases the increase in payment is much higher, as the organizing secretary points out: “[...] when we got our first order from Maganlal, people were so happy [...] they were supposed to design and they were so surprised they got approximately 85 times what they would have got for doing something like that”.

transportation costs of the activists and to build savings for future orders which require the purchasing of material.

5.2 Legislative and policy initiatives beyond the labour law

Besides problems related to the employer, the most pressing problems of informal garment workers in Mumbai are the extremely poor housing situations, lack of sanitation facilities and inadequate access to social security schemes. The majority of informal garment workers organized within LMKS live in Dharavi, a slum which is home to around one million people on 1.7 sq. km site. (Gartenberg 2011). Many home-based workers do not have a toilet in their home but depend on public toilets. Informal garment factory workers face a similar situation since only 30% of the informal garment factories have a toilet facility (Interview garment union activist).

A key organizing strategy of LMKS is therefore to support members in accessing public services such as affordable housing, the building and maintenance of public toilets, access to ration and election cards, and access to social security schemes. The importance of tackling these issues is pointed out by the chairperson of LEARN: “In the trade unions, especially in the informal sector, you cannot just restrict it to economic demands, because all these are related. [...] For this lady, here home is her workplace, so you have to give them similar facilities at their workplace: at the home”.

The union functions both in terms of raising awareness among members about the different social security schemes and their requirements for eligibility, as well as in terms of support in filling out the necessary paper work and bringing it to the appropriate government office. A key concern for informal garment workers is the issuing of ration cards in order to access subsidized wheat, rice and kerosene under the public distribution system. While holders of an above-poverty-line (APL) ration card of orange colour are only eligible for subsidized food grains, holders of below-poverty-line (BPL) ration cards of yellow colour are eligible for food grains and other commodities at very cheap rates (Bhowmik et al. 2013: 199). As most workers do not know how to get the paperwork done to obtain ration cards, they usually depend on agents who charge Rs. 5,000 (83 USD according to the 2014 exchange rate) for applying for a temporary ration card (which has to be renewed every year) and Rs. 10,000 (166 USD) for a permanent ration card. LMKS in contrast asks for a contribution of Rs. 1,000 (16 USD) if it successfully obtains a temporary or permanent ration for a member; this money is used to cover the costs of notary stamps and other requirements during the application process, as well as for co-financing the union work (Interview home-based union activists).²⁶

²⁶ Since the agents charge five to ten times more than the union for facilitating the access to ration cards, union activists are sometimes targeted by agents who see them as a threat to their “business”. In some cases, union activists were beaten up at their homes by agents to prevent them from harming their business (Interview chairperson of LEARN).

If the ration cards are not provided after application or if the quality and/or quantity of items provided is reduced, union members are mobilized for large scale protest marches (*morchas*), often in cooperation with other civil society organizations, in front of the respective government offices responsible for providing the service, such as the ration office or the municipal corporation.²⁷ As the home-based union activists explains: “They were not aware about their rights. They didn’t know what they should get from the government [...] when people will get organized then only government will do something”.

On the issue of housing, research and data collection are key strategies for gaining legitimacy, while they simultaneously lobby the state to provide affordable housing for the workers, as it shows the anchorage of the organization at the grass-roots level, as compared to many NGOs who provide ‘expert opinions’ but do not have membership among the concerned workers (Interview chairperson of LEARN 2014).

When union members in a particular area report problems of open sewages, choked gutters and irregular cleaning of garbage, the union activists pressure the local public authorities, of the respective area, until they authorize the cleaning and the covering of gutters. Furthermore, the union activists responsible for health support the union members in accessing healthcare services in public hospitals, which will be explored in more details in chapter 5.5.

5.3 Building alliances and coalitions

At the level of socio-economic demands such as affordable housing, public toilets and access to ration cards and quality of items provided under the public distribution system, LMKS and LEARN cooperate with a broad network of civil society organizations. These include coalitions such as *Rationing Kruti Samiti* (RKS, Action Committee on Rationing), a national platform of civil society organizations working towards improving the functioning of the public distribution system. With LMKS being a member of the local branch of RKS, this alliance is used to bring together a larger number of people from different members of the platform while organizing public protests regarding access to ration cards. On the issue of housing, LMKS and LEARN cooperate with NGOs such as the Committee for Right to Housing (CRH), promoting the right to housing, as well as with Research Institutes in terms of information sharing and advocacy work.

For organizing health and eye camps, the union cooperates with public trusts and charitable hospitals which provide support in terms of medicines and vans for the health camps, while issues such as women’s rights and the prevention of abortion and domestic violence are tackled in cooperation with various non-governmental organizations such as Majlis (a women’s rights organization in Mumbai) and community campaigns providing input, training and legal advice to the union. Through cooperation with NGOs such as the Committee of Resources

²⁷ This happens only if a larger number of workers do not receive their ration cards.

Organisations (CORO), LMKS is able to access fellowships for some of its union activists which include a monthly stipend over 3 years as well as regular leadership training programs. While cooperation and alliances with other groups are crucial for the success of the union, it, at times, also includes the risk of being “used” as a mass-organization to mobilize people for NGOs which do not have a membership base but want to show numbers to lobby the government. Questions of representation emerge in this context, which need to be carefully addressed in order to sustain fruitful alliances with other groups. The union is also affiliated to SEWA; LMKS activists participate in the various trainings, workshops and national council meetings organised by SEWA.

5.4 Electoral politics

Electoral politics are not used by LMKS and LEARN. Keeping distance from electoral politics seems to be an explicit policy of the union: “We were also telling people in LMKS that we all have political views, but you should exercise them in elections but don’t bring them into the unions” (Interview, chairperson of LEARN).

5.5 Successful outcomes²⁸

Access to ration cards

With the help of the strategies outlined above - awareness-raising among workers, supporting members in filling in the necessary documents and protest marches in cooperation with other organizations – LMKS has been able to obtain ration cards for 1200 members (Interview with home-based union activists). A key factor for this success was a protest of the union in 2008 in front of the ration office with around 100 union members: on the day of the protest the ration officer signed an agreement stating that a letter by the union confirming the union membership of the applicant and his/her annual household income along with the ration card application would be sufficient proof of identity for issuing a temporary ration card. In this way, the formal authority of the union letterhead was enough to compensate for the lack of property titles of housing and other formal requirements which are usually the biggest barriers for successful filing of ration cards. This concession of the ration officer in combination with five to six protest marches facilitated access to large numbers of ration cards. However, the validity of the agreement expired in 2012 when the respective ration officer was transferred. So now the union has to fight for a similar agreement with the new ration officer, which has proven difficult until now (Interview with organizing secretary).

²⁸ If not specified otherwise, these examples refer to outcomes achieved for the overall membership of LMKS, not only for informal garment workers, since the union activists could not provide an exact break-up of the occupational groups who obtained these benefits. Moreover, only in the case of the ration officer who signed an agreement that there has been a written agreement on the negotiated subject; in the other cases there was not written agreement as the outcome. In this sense negotiations and their outcomes still remain largely informal.

Access to social security schemes

Many union members have been able to access health insurance services by being accompanied by the union activist responsible for health while going to public hospitals. One such scheme is *Rajiv Gandhi Jeevandayee Arogya Yojana* (RGJAY), a health scheme launched by the government of Maharashtra which provides free treatment of APL and BPL ration card holders for more than 900 surgeries/therapies/procedures (RGJAYS 2014). If workers try to claim coverage under this scheme on their own, the hospital staff often intentionally delay the procedures and provide unclear information in order to discourage the patient from accessing the service. The mere fact of a union activist accompanying the member and showing the union ID card to the health staff has a major impact on ensuring the workers' access to such health services (Interview with garment union activists; Interview with factory worker No. 1). In Mumbai, LMKS has obtained coverage under the *Indira Gandhi National Widow Pension Scheme* for only 3 union members, while 50 members had applied for the same. Activists of the Solapur branch of the union have been very successful in pressuring the local government to set up an 'implementation committee' (consisting of one social worker, one lawyer, and three government officials) for two social security schemes: *Sanjay Gandhi Niradhar Anudan Yojna*, a state-level pension policy which provides a monthly pension of Rs. 600 for "destitute" persons (such as deserted women, physically challenged individuals and women rescued from prostitution) and the *Shravan Bal Seva Rajya Nivrutti Vetan Yojana* (in combination with the central government's *Indira Gandhi National Old Age Pension Scheme*) which provides a pension to destitute senior citizens.

By working with media coverage and protests aimed at pressuring the government authorities to set up and activate the implementation committee, LMKS, in Solapur, has enabled 90 members to access the old age pension scheme and 34 to access the pension for "destitute" persons, since 2010. The union now functions as a "pressure group" to monitor the implementation of these policies (LMKS 2014); in the future LMKS Mumbai will try to learn from this experience of the Solapur branch to replicate this success in Mumbai (Interview with chairperson of LEARN).

Increased pay (in real terms), equal wages and access to payment

A major success in terms of increased pay was achieved by the home-based workers in 2009, when the data collection of a union activist on the piece-rates paid in one area revealed that a contractor was paying different piece-rates for the same work: the rate varied between Rs. 1 to Rs. 2 per piece. The union members of that area assembled, and decided to collectively refuse taking work from that contractor until he paid all workers at an equal rate of Rs. 2 per piece. While the contractor refused to comply with that demand, the women's 'strike' went on for three days, which made the employer of the contractor come to the area to see why his work was not being done. In urgent need to get the work on his material completed, the employer decided to increase the rate to Rs. 5 per piece for all workers (Interview with former union president; Gartenberg and

Bhowmik, 2014). Being in direct contact with the employer since that incident, the union members in that area demand a rate hike every 3-4 months to account for inflation; they now earn Rs. 15 per piece as compared to the initial piece-rate victory of Rs. 5. In addition to that, around 300 union members have benefitted from the system of taking direct orders from employers through the union at piece-rates which are two to four times higher than the piece-rates given by the contractors (Interview with former union president).

Besides yielding higher piece rates, this strategy also results in establishing a direct employment relationship between the factory owner, as the principal employer, and the home-based workers. The union has intervened in many cases in which contractors refused to pay the workers due to mistakes in the respective work. After the intervention of the union, the workers got “at least some amount of money” (Interview with home-based union activists). Furthermore, there are numerous cases in which the union has achieved equal wages for newly-employed workers in informal garment factories, as well as payment of wages when factory owners retained parts of, or even the entire wages of workers. In 2013, the owner of an informal garment factory arbitrarily dismissed a worker after several years of service, retaining 15 days of her salary. The worker, who was not yet a union member at that time, approached LMKS for help; all the 11 union activists went to the factory together to pressurize the owner who subsequently agreed to pay the retained wage to the worker and to re-instate her (LEARN 2014). Furthermore, out of 17 factories addressed, payment of overtime was achieved in eight factories through negotiation of the union activists with the factory owners: “Now we get overtime, earlier we were not getting it. They were not paying us our Sunday off, if we remain absent for a day, they used to cut our salary. [...] But now we are getting double salary for Sundays and money for lunch also” (Interview with garment union activists). Although this agreement was not formalized in writing, it is still valid to date.

Improved working conditions

With sexual harassment and verbal abuses being widespread in informal garment factories, LMKS has intervened in “scores of harassment cases” at the shop floor level (Bhattachariya, 2014). In many cases, factory owners dismiss male workers who harass female workers after the intervention of the union. As the former president of the union reports:

“[In 2012] there was an old lady. She was not that old but the male workers used to say all bad things to her. And whenever they saw her sitting to cut the thread they used to touch her with their feet and kick her [...] So she came to us and told us this. [...] those members went with us leaders. All those who used to abuse her were removed from the job by the owner”.

In 12 factories, the union successfully negotiated with the owners for building a toilet facility inside the factory; this is a major concern for workers since only 30% of informal garment factories in Mumbai have toilets and women workers have to

pay to use public toilets outside (Interview garment union activists). Following a large-scale protest march organized by the union in 2012, 30 public toilets were built in different areas of the city (Interview garment union activists). Through negotiations with the local authorities, the union activists also regularly achieve the cleaning of gutters and the covering of open sewages in the residential areas where home-based members live, which contributes to improving the health situation at their workplace (Interview with former union president).

Improved bargaining power of workers

According to one of the home-based workers (Interview No. 2), the union has succeeded in considerably improving the bargaining power of home-based garment workers towards contractors and factory owners: “People say random things at work, but now if they say anything we will tell the union, now if somebody misbehaves; we have union who can fight for us. When we complain in the union, union takes quick action” (citation?).

Increased access to employment

LMKS also plays a key role in building networks which support informal garment workers in finding new jobs in case of unemployment: “It [the union membership] helps us to help each other in finding the new work. People talk and share things due to this. E.g. we don’t have work now, and we will tell others, and others will tell us where is the work” (Interview with garment factory worker No. 1).

Access to voter identification cards

In the absence of any other valid government identity card such as a driving license or a passport, a voter identification (ID) card is a mandatory requirement for exercising the right to vote in elections. In total, around 400 union members have obtained voter ID cards with the help of the union. In this context, no protest was necessary since the ration cards were obtained via negotiations between the union activists and the responsible government officials. In many cases the union was able to use the ration cards which had already been obtained as an identity proof for applying for the voter ID cards.

Increased self-confidence and assertion of women workers

As one of the home-based garment workers explained, the union plays a key role in promoting self-confidence and assertion among women workers:

“It’s been 3 years I am member of union, and now I can go and talk to anybody what I want to speak [...] It feels like having some powers [...] There were some people fighting with my friend. When I showed them my [union] ID card, they started talking very kindly. Then they started saying that they made a mistake because they didn’t listen to her. Then I told them, listen to people, before doing anything, otherwise if our [union] leaders come it will be very tough for you guys” (Interview with home-based worker No. 1).

According to the second home-based worker interviewed: “there are many advantages if you are a union member. There are many men who exploit women, but since we have joined the union; now men are scared of doing these things. Whenever such things happen, union always supports us”.

Increased collective identity and mutual support among workers

Finally, LMKS has contributed to building a collective identity among workers, which is expressed in cases of mutual support: “It’s like we travel on the same boat, and we were shown the path, now it’s our duty to show the path to these women. [...] Most of them are not educated, so they don’t understand anything. So I go with them personally” (Interview with home-based worker No. 1). The same union member reported a case of collective support of a union member who was unable to bear the health expenses for her injured child:

“Few days ago, Fatima [the union activist for domestic workers] told me, a kid was injured in an accident. She asked me if somebody can help him, because the expenses were too much. So everybody helped as much as they could, I also helped according to my capacity. Later when I asked, the child was recovering fast, and now he is healthy.”

6. CONCLUSION

This paper has explored the working and living conditions of Mumbai’s informal garment workers, finding that violations of workers’ rights are manifold and embedded in the economic structure of the sector. The rights of workers as citizens are systematically violated and many women are exposed to violence at home and in the community.

To respond to this situation, the organisational model of LMKS as trade union is rare as compared much of the “development” work promoted by NGOs in Dharavi. This corresponds to the larger picture in India where a large number of NGOs have emerged around various ‘development’ issues concerning the livelihood of informal sector workers. Despite large numbers of NGOs, Antony (2003) has found the number of *membership-based* organisations, and among those especially trade unions, in the informal sector, to be very limited.

Asked about the significance of functioning as a trade union and not as an NGO, the former president of LMKS explained: “These are not some social workers. This is a worker’s union. Social workers roam around in villages, slums and give speeches, distribute food clothing etc. Sanghathana [trade union] empowers them. [...] One must give birth to the strength so that he/she can fight on his/her own”.

The organizational and representation model of LMKS and LEARN is one of close cooperation between a labour NGO and a trade union working jointly to ensure the decent working and living conditions of workers in the informal sector. According to the chairperson of LEARN, “this is the only way an NGO can function.

Otherwise if it doesn't function with the union, then the NGO becomes a non-democratic body which is just distributing money".

As outlined above, the specific structure of LEARN and LMKS enables the union to access a broad range of networks, knowledge and human and financial resources in order to support the organizing of informal workers.

The most successful organizing themes that have emerged in the work of the unions are those which resonate with the problems of female workers - domestic violence, harassment and patriarchal structures – as well as citizen's rights such as housing, ration cards, and public infrastructure. Organizing has been most successful through building a collective identity around these issues, which can then be used to build a collective identity as workers. *Associational* and *organizational power* (Gumbrell-McCormick and Hyman 2013)²⁹ seem to be key factors in building leverage towards employers and the state, while collaborative power is attained through cooperation with other organisations (ibidem), an aspect that is crucial for accessing resources in terms of (legal) advising, funding, and mobilizing people for protests.

Overall, this case study has shown that in the Indian context, labour regulation has little effect in terms of providing protection to garment workers in the informal sector, as most of the laws fall out of the regulatory scope. For workers in informal garment factories, the main obstacle in accessing legal protection is their exclusion through the numerical thresholds of most labour laws as well as ineffective labour inspection. Home-based garment workers are both de jure and de facto excluded from labour regulation since there is no law regulating the conditions under which work can be sub-contracted to home-based workers. Regulatory reforms are urgently needed to cover these sections of the workforce, for example through an extension of the Contract Labour (Abolition and Regulation Act) of 1970 to home-based workers. In the absence of the legal protection of informal garment workers, trade unions are crucial for protecting their rights against contractors and factory owners, and building bargaining power to increase their income. Social protection schemes, where they cover informal garment workers, are only effective if workers organize collectively and pressure the state to provide access to these schemes, as the struggles of LMKS for ration cards and coverage under various social security schemes have shown.

Trade unions are therefore key agents in protecting informal garment workers at the workplace and at the community level and ensuring that social security schemes and public services, provided by the state, actually reach the intended beneficiaries. However, low levels of education and a lack of knowledge of bureaucratic requirements to set up and run a trade union make it very difficult for informal sector workers to organize on their own without support from more

²⁹ According to the authors, *associational power* refers to the fact of having membership which provides the union with financial resources. However, paying membership fees does not necessarily mean that members are willing to participate in collective action. *Organisational power* therefore refers to the identification of members as a collective entity and their willingness to engage in collective action.

educated people. As the organizing secretary of LMKS pointed out, government initiatives to support the growth of trade unions in the informal sector may therefore imply sending accountants (for example interns) from the Income Tax Department and/or Labour Department to informal sector unions as part of their training, providing support on accounting and paperwork to the union, similar to the provision of public prosecutors in courts. Creating a more facilitating environment for the creation of trade unions in the informal sector through such initiatives could be a motor for the successful implementation of social security schemes and decent work for informal sector workers.

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ISSN 1866-0541