

## **CHAPTER FIVE**

# **WORK ENVIRONMENT AND POLICY STRUCTURE FOR THE MIGRANT INFORMAL LABOURERS**

“Migrant workers are an asset to every country where they bring their labour. Let us give them the dignity they deserve as human beings and the respect they deserve as workers.”

Juan Somavia  
Director General of ILO

### **5.1 Introduction**

The neoliberal imperative reduces the state’s grip on the ‘free’ market’ and is manifested in Global South as ‘structural adjustment’ and makes national as well as the world economies radically informal (Hart, 2015: 411-416) by casualisation of the labour forces under the influence of corporations. Therefore, the neoliberally driven economy was active when the post-war Keynesian was on a decline. Thus neoliberalism’s improbable/unprecedented rise is a result of deregulation, linked to the privatisation of public goods and services in order to make use of the poor people as wage labour, and thus accelerating migration. In developing countries like India, wage differentials, employment opportunities, and aspirations propel the poor rural young people away from their homeland in search of income opportunities. Nearly, 33-90 percent of total employment has been occupied by informal economy (ILO, 2015: 06), which often leads to hazardous, low paying working conditions along with very limited legal and social protection.

The present chapter investigates the interaction between the informalised migrant labour in the light of actual existence of neoliberalism and working environment of incoming migrant labour force through the prism of locational and specific connections (Barff and Ellis, 1991: 339-362). It should be noted that, except some frontier areas, internal migration in India is not regulated. The Ministry of Labour at the central level and the departments of labour at the state level are chiefly responsible for formulating and implementing measures and legislation aimed at protecting migrant workers. In most cases, the safeguards are common to both migrant and local workers. Concerns of migrant labourers are also shared by some other relevant social sectors, such as ministries of health and

family welfare, human resource development, food and consumer affairs, and social justice. For this research work I have analysed the work conditions of migrant labour in the receiving/host area. This chapter also seeks to highlight how the policies in the receiving areas can develop a nexus between decent work environment and sustainable work environment of migrant informal workers in Sikkim with special reference to Rangpo and Singtam towns.

## **5.2 Manpower on the Anvil**

Structural transformation demanded by globalisation increase the spatial movement of individuals in relation with the demand and supply for labour in any fledgling economy. Dealing with Sikkim's unorganised sector, migration seems to have been of crucial importance. In all the eight major towns of the tiny state of Sikkim, migrant labour constitutes the workforce of unorganised sector. As evidence shows, from the recent past, India has been trying to uphold a rights-based approach through framing several policies and flagship programmes to promote decent work environment and social security measures for the informal sector workforce. Sikkim's progress in this regard is plagued with several intricate problems of its own. The worker-friendly policy of the state government practiced by the state economy favours trade liberalisation, as well as the development activities. However, Sikkimese man-power is reluctant to perform productive, low and semi-skilled activities, despite the support of the government. Therefore, resorting to migrant labour man-power appears to be the possible alternative to run the present economic structure. NSS 61<sup>st</sup> Round (NSS, 2004-2005) reveals that maximum participation rates of the workforce in India are in informal sectors (92.40%). Due to lack of awareness and poor educational background coupled with their fragmented nature of work participation and mobility, labourers of the unorganised sector fail to secure the advantages of whatever little statutory measures are there, though, in the light of SDGs, sustainable migration is an important contributor for sustainable development and has a synergistic effect upon economic growth. This seems to be an utmost necessity especially in case of Sikkim where the workforce of unorganised sector is almost entirely based upon the migrant labourers coming from different corners of India.

The purpose of the present chapter is to examine the synergies between migrant's positions and the working environment in urban informal sector to find whether labour migration vulnerabilities are driven or not in the informal sector at Rangpo and Singtam towns. These issues will further be assessed on the basis of a review of state policies of Sikkim in relation to informal sector labour. It

would be interesting to note that migration has been a highly politicised issue in Sikkim and due to Sikkim's special status in relation to the Union of India. Article 371 F was included in the Constitution of India through 36<sup>th</sup> Amendment Act in the year 1961, which was the condition and an agreement between Sikkim and Indian Union for the purpose of merger (The Sikkim Darbar Gazette, 1961). In a same way, Article 371- F (k) also protects the old laws of Sikkim. These Acts changed the post-merger spheres of Sikkim's socio-economic opportunities and managed to keep in view the concerns of the insiders vis-à-vis the outsiders (migrant vs non-migrant).

The situation is that the working class population employed in the urban informal sector in Sikkim is susceptible to be more vulnerable if they are outsiders (i.e. non-Sikkimese) and are not in possession of the administrative or official shields like Residential Certificate, Sikkim Subject Regulations of 1961, Registration as per the Sikkim Labour Protection Act 2005 and the like. Based on quantitative data and qualitative observations gleaned from my field work, this chapter reflects upon various fields of the informal sector like construction work, tailoring, portering and hotel work. The chapter also examines the inadequacies of existing policy regime in Sikkim and the loopholes therein, which ultimately aggravates the helplessness of the urban informal sector labour and consolidates the many layers of their exploitation, denial, and sufferings. In these platforms whether migrants are satisfied or seek to move elsewhere – is assumed as an important research question to be pursued. In brief, the case studies of Rangpo and Singtam would help explore the significance of the analytical triad constituted of migration, work environment of informal labour, and policy regime in determining the employment and labour market situation on the one hand and would also pinpoint the problems and prospects of the various provisions of sustainable migration and their attainments in the State of Sikkim on the other.

Internal serial migration in Sikkim is regarded as a problematic dimension of out migration flows from the native place areas – especially West Bengal and Bihar as my research shows. A primary reason is the kind of irregular state of affairs which puts the migrants in a legally precarious situation where they have hardly any choice initially other than work in 'offered wage' and daily based jobs in the informal economic sector for some time. Bihar, West Bengal, UP rely on labour out-migration to metro cities and towns to help ease unemployment pressures at home land and for the economic benefits of remittances (IOM, 2015). From a geographical point of view, as seen in cities such as Delhi, Mumbai, Kolkata, and Ahmedabad (Banerjee, 2004: 143-164) labour migrants

tend to concentrate in downtown areas where living expenses are relatively low; Sikkim is not an exception to such practices.

The proportion of informal workers in the industrialised economies varies between 2 and 15 per cent, but for Global South we have ILO figures that vary from 30 to 80 per cent of the working population (ILO 1997: 175). Considering other examples from various countries, (In Latin America it was estimated that 9 out of 10 jobs generated in the 1990s were in the informal sector) we cannot argue that the informal sector is an aberration from the formal norm. Rather, we must understand the growth of informalisation as a major characteristic of existing globalisation. Ulrich Beck recognises this pattern of informalisation under the appearance of greater labour flexibility in the international norm - a process which has been dubbed 'Brasilianisation' (Beck 2000: 79-105), a new norm of irregular informal personnel. Industrial Revolution generated a great transformation which created unregulated free market in a world-wide scale (Polanyi, 2001: 231).

It also expanded the atypical form of labour use: normally we use to stress the political unfreedoms which were making inevitable corollary of all form of coerced labour (Bremen, 2013:285) and because of these reasons, it has become essential to discuss the work environment offered by the state to migrant labourers under the canopy of state's policy regime. In this globalised world, time-space compression has increased and simultaneously the volume and flow direction of labour migrants have also increased and generated a complex, uncertain outcome for the home and destination areas. Urry (2000: 62) described it nicely in the language of the new physics as "a series of turbulent waves, with a hierarchy of eddies and vortices, with globalism a virus that stimulates resistance, and the migration system a cascade moving away from any apparent state of equilibrium".

### **5.3 Work Environment**

Normally, new entrants in the town easily get entry to the labour market through informal sector because this sector does not demand fixed location or any formal training. Informal employments are insecure and uncertain, and they also contain different adverse working situations – long working hours, pressure to complete contract job within very short deadline and so on. There is no perfect correlation between being poor and working in an informal sector (in my case tailors who are employers in the labour market of Rangpo and Singtam) but due to the lack of social protection

and perfect labour legislation in the informal sector, labourers earn less than the workers in the formal economy (ILO, 2004).

Informal workers are mostly low skilled migrants, perhaps they need more attention due to their “brawn drain”, (Penninx, 1982: 793) a flow of young and able bodied persons from the home areas to others and literatures show that informal labourers are vulnerable because: they are not protected by labour laws, have no social security, severance of pay and poor working conditions (Cundogan and Bicerli. 2009: 8). In this chapter, I intend to focus on my respondents’ work environment situations through various field observations. It is already observed that the type of work for most of the respondents is casual, temporary in nature as per the demand or rule in the informal sector. These workers are typically less educated and unskilled or semi-skilled in nature (ref. Chapter Five). Even if they have a long record of employment, it is only recognised as an experience in different varieties of work rather than skilled labour (Breman, 2013:179).

Table no. 5.1 **Proposed Ranking of Different Work Environment by the Respondents in Rangpo Town**

Factors	Total	Average Score of respondents	Rank
Wage	13782	78.75	1
Compensation for over time	9871	56.40	5
Working hrs.	8658	49.47	6
Employment security	7144	40.82	7
Hygienic working place	10890	62.22	3
Bullying by superior	10750	61.43	4
Retention strategies	1105	62.88	2
Protection facilities at working place	5846	33.40	8
Social security	5167	29.52	9
Union rights	4035	23.06	10

Source: Field Survey, 2016-17 (computed after Henry Garrett ranking conversion).

To get a clear picture of the work environment and decent work culture, I have considered ten parameters (table no. 5.1. and 5.2.) for discussion. There are different working groups (i.e. OWG) that proposed and stressed the promotion of decent work or healthy work environment for the migrant labourers. It also includes different facets and focuses on “the need to respect and promote international labour standards as appropriate, and respect the rights of the migrants in their workplace” (UN G.A Resolution, 2013, pars: 14and 12 respectively). The above table expounds all taken parameters (10) and ranks them by using Henry Garrett ranking conversion process. It is explicit from the tables (5.1.and 5.2.) that the migrant informal labourers of Rangpo and Singtam have ranked the variables in accordance with their experiences and perceptions.

Table no. 5.2 **Proposed Ranking of Different Work Environment by  
The Respondents in Singtam Town**

<b>Factors</b>	<b>Total</b>	<b>Average Score of Respondents</b>	<b>Rank</b>
<b>Wage</b>	13632	77.9	1
<b>Compensation for over time</b>	9729	55.59	5
<b>Working hrs.</b>	7022	40.13	7
<b>Employment security</b>	6622	37.84	8
<b>Hygienic working place</b>	10927	62.44	3
<b>Bullying by superior</b>	11516	65.8	2
<b>Retention strategies</b>	10328	59.02	4
<b>Protection facilities at working place</b>	7543	43.1	6
<b>Social security</b>	5502	31.44	9
<b>Union rights</b>	3216	18.38	10

**Source:** Field Survey, 2016-17 (computed after Henry Garrett ranking conversion).

### 5.3.1 Wage

My respondents of Rangpo and Singtam town have given top rank to the wage structure offered by the government of Sikkim, considering the facts that they are getting least minimum wage from the state. Although the everyday/weekly/monthly earnings of migrant labour at the host areas may be marginally higher than the source area, the migrants undertake this drifting work to uphold or slightly recover their present situation at native place (Haan and Rogaly, 2002: 1-14).

There are strong views that minimum wages in the informal labour market are not being regulated in a proper way, though legislative protection to provide minimum wage may be measured as a hallmark of any reformist nation. It is one of the fundamental natures of a healthy, decent work environment. NFLMW (National Floor Level of Minimum Wage) has increased India's minimum wage to Rs.137/day from Rs.100/day in 2007. After that the new improvised minimum wage has been declared as Rs.160/day which came into effect from June 1<sup>st</sup>, 2017. Any respective state government has been empowered to fix their minimum wage independently; it may depend on the GDP (Gross Domestic Product) of the state or nation. In my study the maximum flow of people has been noticed from the state Bihar and West Bengal which have their GDP at \$520 or Rs. 34,168 and \$1200 or Rs. 78,903 respectively, whereas Sikkim has GDP at \$3500 or Rs.2,27,465, (Reserve Bank of India, 2018) i.e. more than that of India as a whole at \$1700 or Rs.11,2764 in 2017-18 (PRS Legislative Research, 2018).

Minimum wage, which has been enacted in Sikkim from July 1<sup>st</sup>, 2017, is much higher than the home states of my respondents. Individual state trends can set up higher minimum wages carefully bearing in mind their feasibility. Government of Sikkim proposed to revise their existing minimum wage rate as per their policy decision adopted in the year 2014. Sikkim's retrieved wage rate offered minimum wage for unskilled labourers of Rs.300/day; semi-skilled are entitled to get Rs.320/day, skilled labourers are allowed to receive Rs.335/day, and highly skilled are getting Rs.365/day (The Sikkim Government Gazette, Department of Labour, 2017). On the other hand, home states of the respondents are providing much lower minimum wages: in Bihar it is Rs.247 for unskilled, Rs.257 for semi-skilled, and Rs.313 for the skilled labourer, and in West Bengal unskilled labourers are entitled to earn Rs.255/day for zone A, Rs.230.7/day in zone B, Rs.280/day (zone A), while Rs.253.7/day (zone B) is allocated for semi-skilled labourers, and skilled labourers get Rs.309/day and Rs.279.16/day for zone A and zone B respectively (West Bengal minimum wage w.e.f., January 1<sup>st</sup>, 2018). My field experience at Rangpo and Singtam town reveals the fact

that migrant informal labourers enjoy the benefits of the minimum wage in most of the cases and there is a certain gap between the pre and post migration income (discussed in Chapter Four) due to the gap in minimum wage fixed by different state governments. In my study area I have also noticed that labourers make additional effort to earn more than the per-day fixed rate within a short span because most of them are seasonal or temporary in nature. Sometimes they negotiate with contractors or employers because unpredictable alteration between periods of idleness and job illustrates the insecure nature of informal jobs, though there is high demand for migrant unskilled, semi-skilled labourers in Sikkim.

Self-employment or petty commodity (PCP) has impact to more than three quarters of the national total GDP and the biggest part of the Indian informal work force (Harriss-White, 2010: 152-177, 2012: 109-160). This 'self-employed' group covers various production process, like- small business families (e.g. tailors, according to my research respondents), traders who employ their own labour, or self-employed wage labourers (e.g. porters according to my research respondents) etc. Self-employed daily wage casual labourers are not dependent upon the minimum wage fixed by the government; their rates are flexible according to the demand – porter as a case. Normally, in informal economy, there are different types of wage variations, not only among various types of jobs but also within the same job under same supervisors (if any), construction workers, hotel workers, and tailors as the cases show. Commoditisation of physical labour is the core ideology of informal proletariat groups and also represents the fragmented economic system. Globalisation picked up the skilled/semi-skilled labourers and generated international migration and flexible economy opening up the job possibilities of the unskilled, poor, and precarious people and encouraged the explosion of informality in the labour market. The heterogeneity of labourers and multiplicity of earning in the informal sector led the complexity of daily wage notions. The monthly income has been affected while wage has been calculated on daily basis but paid in monthly, because only six days of the week are taken under consideration and one day (compulsory holiday) has been unpaid for, though workers are working on that particular holiday as their normal working day. My respondents give first rank to the minimum wage parameter to validate the better work environment but the interesting fact is that they relate and compare the present earning standard with their pre-migration experiences, not with the state's fixed minimum wage for specific occupation. Due to this, in reality all of my respondents are not availing the state's fixed minimum wage for their work. In the field I have noticed that all migrants are not getting minimum wage of



Sikkim, though they have given the first rank to minimum wage variable which proves their adverse wage structure in native place.

Table no. 5.3 **Minimum Wage Paid by the Government of Sikkim and the Average Per Day Income of Respondents**

Occupation	Pay check India, Minimum wage in Rs. (Sikkim, with effect from July 1 <sup>st</sup> , 2017)			Average per day income in Rs.	
	Skilled	Semi-skilled	Unskilled	Rangpo	Singtam
Tailor	335	320	300	443.28±390.05	641.18±439.94
Porter	335	320	300	443.28±71.30	550.26±45.60
Hotel worker	335	320	300	282.00±105.22	245.00±114.23
Construction worker	335	320	300	509.20±139.54	546.30±148.63

Source: Field Survey 2016-17 and Pay check list of India.

### 5.3.2 Work Contracts/Recruitment and Wage Forms

The vast majority of migrant labourers in the informal sector and employment is obtained in this sector typically through three ways, though these ways are dissimilar for different activities. First is by the labour contractors, second is through family, friends, caste, community, and religion based network and third, by standing at the factory/institution gate (NCEUS, 2008: 37). There is no formal advertisement or publicity for employment, nor any signed contract during their job duration. Migrant network is continually a location-specific form of social capital (Massey et al., 2005: 176). On the other hand, Bourdieu (1985: 241-58) also stated that the volume of these types of network depends on the dimension of network connections and also on cultural, economic, or symbolic volume attained by the person with whom the migrant is connected. Permission to start the new job is often arbitrated by employees' kinsmen, village mates of the new migrants (Bremen, 2013:48). Newcomers are hardly allowed to bargain for their wage, though they find high value of their physical labour. Normally, they are recruited on primordial contracts. If capitalism encourages the mobility of labour force, liberalism hastens that movement, and globalisation deepens global competition (Evan and Gibb. 2009: 1-70) which pushes the 'flexibility' and its adverse effects on

labour market because nothing but a commercial risk tries to save casualised informal labour trends. It is strident to erode the employment nature and to contribute to the emergence of precarious work where job security is under threat and ‘minimum wage’ is an illusion. The elaborate occupation-wise recruitment processes and wage structure of my respondents have been presented below.

### **5.3.2.a. Tailor**

In both of the towns, I have noticed that only the tailoring job has noticeable diversity of income among the respondents. According to my field data 1.71% and 2.28% of the total respondents are employers (own tailoring business) at Rangpo and Singtam respectively. In tailoring business, the labourers are paid by the tailor-employers on the basis of volume of work (number of finished pieces), not as daily wage. The concentration of these kinds of labour is quite high in my study areas (56.25% and 41.18% at Rangpo and Singtam respectively). There are also some monthly salaried employees in this occupation, especially those who have some experience. Calculating mean wage in this occupation is complex due to its expanded wage variety. Field survey computed that Rs.443.28 (Rangpo) and Rs.641.18 (Singtam) is average per day income with high deviation. Table 5.4. shows that some tailors (12.5% for Rangpo and 11.76% for Singtam) earn below minimum wage per day, while most of them (56.25% and 41.17% for Rangpo and Singtam) get minimum daily wage according to the latest revised wage and remaining tailors earn more than daily minimum wage, 31.25% and 47.06% at Rangpo and Singtam respectively. Recruitment of labourers in this field is totally dependent on the community and place (common origin) based network and it has also been found that these self-employed groups are continuing their business for last two generations.

### **5.3.2.b. Porter**

It has been noticed in the course of field work that an extensive diversity of wage labour modalities controls the informal sector and that there are various propensities to define informal work as self-employed economy. The physiognomies of this self-employed nature of work has been identified by own account activities and with their own risk to struggle for subsistence (Breman, 2013: 360).

Informal sector workers in self-employed non-agricultural spheres are mostly engaged in trade and manufacturing. Self-employed men are predominant in the trade sector (42%), as mentioned in NSS 55<sup>th</sup> Round (1999-2000). Recent studies show that Indian economy has been dominated by ‘self-employed’ group of workers in the workforce with 56.5% participation rate (NCEUS, Govt. of

India, 2007: 49), though the nature of self-employment has totally changed from pre-capitalist time (*ibid*) onwards. The porters of my study areas are under the category of self-employed; this category, however, earns money through daily practice and wages are paid simply for their physical labour power. Here, the term self-employment is nothing but the mode of wage payment – totally depends on worker’s personal choices or towards self-exploitation. Most of the porters at Rangpo (87.09%) and Singtam (90.76%) earn more than the daily minimum wage by expanding their working hours and physical stamina, and to accumulate more money within small time span, because majority of the porters are temporary/seasonal in nature. According to my respondents, mean minimum wage of the porters at Rangpo is Rs.443.28 and Rs.550.26 at Singtam town. There is no certain fixed rate for the porters; due to the mountain terrain, the demand for porters in these (industrial and commercial) towns is very high. There is no provision of written contract or registration system in informal economy, but 2010 onwards, the local administration (Nagar Panchayat Office) and Rangpo and Singtam Police implemented the regulation for the porters that they need to register themselves at Police Station (for Rangpo, 2017 onwards the registration process is taken care of by the NPO) before joining their job in the towns and also have to buy one green jacket with specific number for their identification as ‘*Namley*’<sup>13</sup>. The major exploitation which takes place with the porters is that the police or administrative officials charge different amounts of money (Rs.250 to Rs. 1,500) to provide the jacket. Although the recruitment of these porters is completely dependent on the network system, the State (Sikkim) nevertheless acts as an agency to provide the permission to do job.

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<sup>13</sup>*Namley*: local name (in Nepali language) of the porters.

Fig no. 5.1.

**Porters Wearing the Jacket with Number**



**Source:** Field Survey 2016-17 in Singtam town.

**5.3.2.c. Hotel worker**

Under the *North East Region Vision 2020*, Sikkim is intending and developing different services to promote tourism which could create employment opportunities in the state. During 2016-17, Government of Sikkim allocated US\$2.56 million for the development of the tourism sector in Sikkim. Central Government of India in 2016 (September) approved “Swadesh Darshan” project with US\$68.74 million (4,571.8974 INR) to develop tourist circuits in five states; Sikkim is under ‘North East Circuit’ (Sikkim, The Land of Peace and Tranquility, 2017). Department of Tourism, Government of Sikkim approved this project at a cost of US\$1.58 million (105.0858 INR). Sikkim Tourism Policy, 2015 has promoted a new dimension for the growth of tourism industry in the state. Rangpo-Gangtok has been identified as an industrial corridor – accumulation of hotel industry is also high in these two towns along with tourist interests. This industry generates different layers of skilled, semi-skilled, and unskilled employments. Demand for labour in this sector is not being fulfilled by the locals, so, the demand for cheap migrant labour is always high. Hotel workers in small enterprises are recruited as wage labourers or monthly salaried labourers. Migrant wage labourers often face economic abuse, and the same is also noticed for those migrant hotel workers who earn their income on a monthly basis. Normally, they have been paid wages lower than what is received by local counterparts. Wage and salaried hotel workers earn on average Rs.282 per day at Rangpo and Rs.245 at Singtam, lower than the state’s notified fixed rate. During

field survey I observed that in this informal sector there is some participation (not respondents, through observation and interviews) of local people and this is the main reason for lower payment of the migrant workers. Table no. shows that all of my respondents who are working as hotel workers have been recruited through community based network. It is the most popular way to get entry into the informal job market in developing countries.

#### **5.3.2.d. Construction Worker**

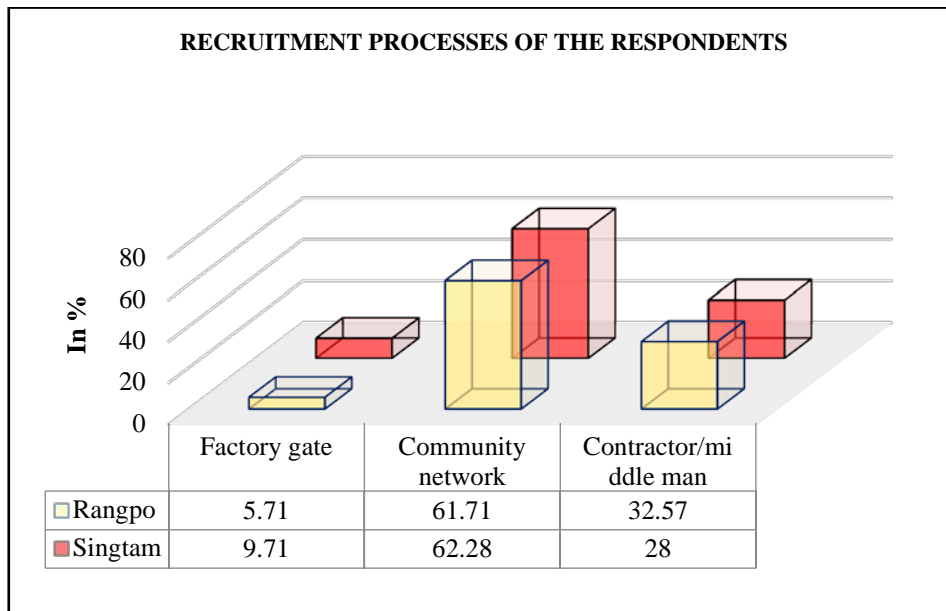
According to the Report on conditions of work and promotion of livelihoods in the unorganised sector, 2007, in the year 2004-05 there was nearly 53% of casual labourers working in the construction sector. As expressed by Wells (2007) “Informality is now the norm, rather than the exception, in the construction industry throughout much of the developing world” (Wells, 2007: 87-93). The construction industry is the major source of employment worldwide, possibly the second largest industry just after agriculture, and normally exploded in the urban areas. Studies estimated that inter-state migration is near about 80 million persons and out of that 40 million persons are working in construction industry. It is a labour intensive and burgeoning industry; this sector always generates many employment opportunities. A pivotal aspect of Sikkim’s neoliberal urbanisation has marked its turn toward creating her urban spaces into different logistic hubs with emphasis on Urban Development Projects (UDPs) or variously known as Urban Infrastructural Projects (UIP). The economics of globalisation creates a free-for-all climate in the global labour market. In these circumstances, capital becomes footloose and labour should obey the capital’s commands and conditions (Bremman, 1996). Construction is the basic practice of infrastructural development. In Sikkim, especially in the East district, the influx of migrant construction labourers is more due to the infrastructural development in the state which creates job opportunities. Another important reason is that the Sikkimese people are not willing to get involved in lower segment of the labour market. Noticeably the participation rate and demand of the plains labourer, rather than the local proletariat is too high.

In the construction industry, contract labour’s share is noticeable and I have also found a small percentage of migrant workers who have got jobs at the factory gate (Fig.no. 6.2). Contract labourers are also engaged in large number in certain activities in the informal sector like, *beedi* rolling, stone quarrying, rice shelling, brick-kiln and construction (NCEUS, 2007: 38). There are nearly 10.7 million construction workers in India and out of that about 83% are employed through

contractors and also have not received any benefit or protection (Vaid, 1997: 99). Normally, contract labour in India is regulated by the Contract Labour (Regulation and Abolition) Act 1970, but there is a disparity between reality and logistics. This Act is not applicable to those contractors who employ less than twenty workers; hence, this condition opens up all types of manipulations that are made by the contractors and employers (SNCL, 2002).

Contract labourers are not same as direct labourers in terms of employment relationship and wage receipt. The contractor or the middle man pays money one time or sometimes as per the requirement of the labour after redeeming the commissions. Sometime, contractors and middle men charge their commissions directly from the employer and also from the labourers. The rate of commission is not fixed; it depends on the types, days, and volumes of work. My respondents (contract construction labourers) stated they never signed any contract paper before joining. They got initial information from a village-mate who helped them to get the job in construction site and the middle man/contractor charged Rs.150-200 from each labourer for providing them with this opportunity. Apart from this, the contract labourer does not have any security or advantage. There are different types and layers of activities in construction industry (semi-skilled, unskilled etc.) like, mason, helper, floor *mistry*, plumber, electrician etc. and it is complex to calculate their overall average daily income. I have computed the daily income of my respondents who are working in construction sector as one unit. It is not possible to count the total skilled and unskilled participation rate because both categories are within migrant labourer category. As per my own field data the average daily income of construction labourers at Rangpo is Rs.509.20 and at Singtam Rs.546 with noticeable deviation.

Fig no. 5.2.



Source: Field Survey, 2016-17.

Table no. 5.4 **Wage Structure of Respondents in Rangpo and Singtam Town**

Wage category	Rangpo in (%)				Singtam in (%)			
	Tailor	Porter	Hotel worker	Construction worker	Tailor	Porter	Hotel worker	Construction worker <sup>12</sup>
< Minimum wage	12.5	1.61	73.33	10.45	11.76	0.00	66.66	7.94
Minimum wage	56.25	11.29	26.66	35.82	41.17	9.23	26.66	47.62
>Minimum wage	31.25	87.09	0.00	53.73	47.06	90.76	6.66	44.44
Total	100	100	1000	100	100	100	100	100

Source: Field Survey, 2016-17.

The wage structure in informal economy has been characterised by different layers of the wage pyramid (Dewan, 2005). My field experience highlights the fact that the maximum number of migrant labourers at Rangpo (81.71%) and Singtam (84.57%) town get prescribed minimum wage and some get more than minimum wage; whereas, apart from the wage benefits, other healthy work environment's parameters are poorly met.

### 5.3.3 Working Hours

For people who are pursuing a livelihood of an unskilled and semi-skilled labourer, standardised working hours are an unknown luxury (Breman, 2013: 284). The casual use of physical power is characterised by an uncertainty as to when the working day actually begins and ends. It has become less important to discuss the working hours in considering the physical input given by each labourer to earn or to survive. Long hours of work in the informal sector have been noticed by numerous studies (Basu, Basu, and Roy, 1987: AN145-AN147+AN149-AN154; Anand, 1991; Acharya and Jose, 1991; Das, 1994:392-405; Swaminathan, 1998: 1513-28; Pais, 2003; Ghosh, 2004).

The prolonged working hours do not help in earning more money in the informal sector; rather exist as a common practice in this field. The work schedule has become more capitalist in informal work regime. Porters, coolies, labourers in fishing and tannery industry are worked for very long hours (NCEUS,2007:36), though different labour and industry regulations of India (Factories Act 1948, Minimum Wage Act 1948, Shops and Establishment Act 1948) put down rules that no adult labourer can work more than 9 hours a day and 48 hours per week. These regulations are not being followed in the real labour market. In Dharavi's leather accessories manufacture unit, it is common that labourers work 15 and 17 hours a day (*ibid*) but on an average, the established working hours is 8 hours per day for six days a week. The field reality is very much adverse in Rangpo and Singtam. The average working hours of my respondents in both the town is 10 hours a day and work goes on seven days a week and it increases with no fixed limit when they come to work as project driven 'contract labourer' (*thika*) on a short term basis.

This research noticed that among all respondents, those who are working on daily wage basis are more vulnerable in terms of working hours. Tailor's wage is determined by the volume of work for which they work for 10 hours per day, but if the worker is appointed on monthly payment basis, they work for 7 to 8 hours a day. Individualisation of labour force develops result-based employment relationships. Tailor staffing depends on the customer requirements which creates a "24 /7" Economy (ILO, 2007).

Self-employed porters who work in the open air on their own accord are free to fix their working time, but due to the nature of migration (temporary/seasonal), porters usually work for longer hours to accumulate money within a short period of time. However, due to mountain terrain in Sikkim market closes early and average working hours are less than that of other plain regions of the country. Still, porters work for an average of 8 to 9 hours a day. Hotel workers are residing at the



work place, so their working hours are beyond any fixed standardised hours. Hotel workers work for 12 hours on average in a day. Similarly, maximum construction workers are also residing at the construction site and they are appointed in any project for limited time periods, due to this pressure average working hours for the construction labourers are more: 11 to 12 hours are common mean working time at my study areas. Table no 6.5 explains the detailed mean working hours for my respondents from Rangpo and Singtam town which influences the respondents to rank ‘working hours’ at sixth position in Rangpo and at seventh position in Singtam.

Table no. 5.5

**Average Working Hours of the Respondents**

Occupation	Working hours per day	
	Rangpo	Singtam
Tailor	8.48±1.37	9.41±1.43
Porter	7.49±1.00	8.09±0.53
Hotel worker	9.42±1.44	10.23±1.04
Construction worker	10.15±1.36	10.22±1.41

Source: Field Survey, 2016-17.

So, the recent decades experienced the new economic trends – increasingly diverse, dispersed and individualised working hours. ILO, (2007: 1) stated that “They have also led to a greater tension between workers’ needs and preferences regarding working hours and enterprises’ business requirements”. These new realism creates time related social problems. While ILO is stressing and promoting the decent work agenda which includes better working time, the real practice is a blatant disregard to the international norms of decent work.

**6.3.4 Compensation for Overtime**

The labour and industry regulation offers some occasional overtime work – stipulating some facts that the labour should earn at twice the rate of normal wage he/she received, but there are very few provisions to obtain compensations for overtime. The wages are normally determined by the long working hours in the informal sectors. Dewan (2005) stated that the overtime did not increase the

wage but it only added to a normal work-day. The overtime wages are a little addition to the monthly income. The basis to calculate overtime rate is more exploitative in informal-undocumented labour group. In my research, I have noticed that only 20.32% (Rangpo) and 16% (Singtam) of construction labourers are obtaining overtime compensation. Although the overtime rate is not determined according to the law, those who are employed for more years with same contractor or '*thikadar*' are getting a few privileges in terms of overtime compensation. Other respondents are not getting any overtime compensation. Hotel workers can earn extra money from the tips given by the customers. These are the factors that the respondents have placed 'overtime compensation' in fifth rank in Rangpo and Singtam.

### **6.3.5 Employment Security**

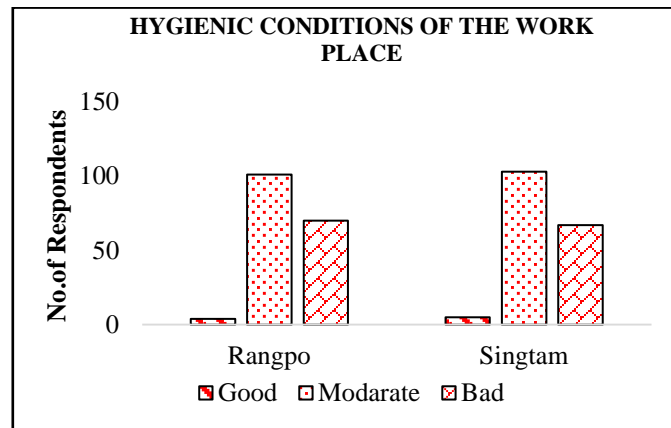
The fundamental challenge to estimating the causal impact of migration duration on the probability of working in the informal sector is the possibility of unobserved individual characteristics that might influence the migration decision, survival at a migration destination, and duration as well as the likelihood of working in the informal sector. Employment security is all about the protection of workers from the job loss which is related to various reasons of dismissals. There is one way of protection called employment protection legislation (EPL). For last few decades the growth of temporary contracts, dispatched work, marginal part-time work has flourished all over the world which led concerns about the workers' employment security. EPL is the set of laws leading the institution of temporary contracts, open-end contracts and also controlling the termination of contractual relationships – individually and collectively and has become the centre of arguments on the labour market reform. A well functioned EPL can be able to provide an impartial treatment along with income security of the labourers. Over the last decades, the importance of EPL has grown world-wide due to the competition in flexible labour market, especially during 2009-2015 global job crisis. The debate on the role of EPL has been studied in various contexts; some highlight its positive sides as to reduce unemployment tendencies among the vulnerable group and others are focusing on its undesirable aspects such as it discourages employment creations (Aleksynska, and Eberlein, 2016: 1-38). Betcherman, (2012: 1-57;2014: 1-34) has stated different arguments based on EPL's input on contemporary labour market. ILO, (2015), launched EPLex (Employment Protection Legislation Summary Indicators in the Area of Terminating Regular Contracts, Individual Dismissals) indicators. All these indicators are based on the legal information which is totally absent in the informal sector: no provision of written appointment letter or

employment contract is practiced in Sikkim as well. There is no legal provision to protect employment for once one leaves the working place in informal employment. In Sikkim there is a high demand for informal migrant labourers but none of my respondents have job certainty nor are assured that there is provision which they could avail to protect their current level of job. Hopefully, I have noticed that there is an ongoing practice of verbal commitment. Monthly salaried labourers are in better position with regard to economic security than the daily wage labourers. My respondents at Rangpo ranked this important decent work option at seventh (Table no. 5.1) and at Singtam at eighth (Table no.5.2).

### **6.3.6. Hygienic Condition at Work Place**

The physical conditions (space, ventilation, hygiene, cleanliness etc.) of work place are very important components of study. Many studies have pointed out poor work environment in the informal sector in India – examples from leather industries (Nihila, 2002:134-166), fish processing units (Dewan, 2005), and other informal sectors like *beedi* rolling, textile industries, diamond cutting etc. (Labour Bureau, 2000) have proved this unwanted fact. Some attributes of hygiene conditions may not be easily measured – most data are based on subjective or qualitative paradigms while some of them can easily be measured (space, height, ventilation etc.). OSHA (Occupation Safety and Health Administration of America) sets some standard measures to provide better work place. In India organised or formal sector can enjoy some measures of better work place through the Factories Act (1948), but in informal sector, it is absent: workers are overcrowded in small work places (Pais, 2002; Breman, 1996). Fig no 6.3 shows that respondents from the construction sector are suffering more because their work place is same as their living place. Others are working in a modest work place with moderate hygienic conditions. My respondents have given third rank to the hygiene condition of their work place at Rangpo and Singtam.

Fig no. 5.3



Source: Field Survey, 2016-17.

#### 5.4 Social Security

Social security may be defined as ‘freedom from fear and freedom from want’ and what broadens the surfaces of individual wellbeing in the security calculus. It is the genuine concern of individuals who opt for protection from the threat of political disability, social conflicts, hunger, unemployment, and other hazards in the society. Globally, neoliberal policies advocate social security mechanisms in the informal – flexible labour market. In reality, the state based social security has been transformed by the market based fundamentalism. “Insecurity” and “risk taking” have become the central theme of globalised capitalist onslaught (Sakthivel, and Joddar, 2006: 2107).

The root causes of the crisis in human security are deeply engrained in the history of human civilisation, and its immediate catalyst was located in post-cold war state. It triggers an obviousness which laced a fear of insecurity from the individual at local to the special groups called migrants, at national level, spreading especially across the global political system from the mid-20<sup>th</sup> century onwards. It encourages labour casualties, human movements from poor secured states to reasonably safe destinations. For example, several countries in the Middle East and South East Asia succumbed to political uprisings in this decade. So its central proposition – that the political system has gone haywire which often misrepresents and controls economy and results into widening inequality - damages human security, especially in informal economy. In most of the developing countries, the social security is not introduced for many working groups, especially in the most vulnerable - informal sector (Gupta, 2007: 99).

The Second National Commission on Labour had recommended that there should be an umbrella legislation to protect the work environment in the informal sector and also for social security. The National Commission for Enterprises in the Unorganised Sector (NCEUS) had already asked for draft legislation on social security of the unorganised sector but it also became a whittled down version of previous attempts. There were many promises by the different governments of India with regard to introducing social security bill for unorganised sector, but somehow this has not happened. NCEUS has already conscripted the bill but no one is forwarding the next step. Hence, everyday labour in the informal sector is growing promptly but no one is making any attempt to provide any security to them. This sector is accountable for 92% of the employment which also absorbs the huge annual increase of national labour force (NCEUS, 2007) and generates more than sixty percent of the GDP (gross domestic product) of the nation (Bairagya, 2015: 35-55), but it has been documented as a post effect of liberalisation which has a very high pace (Vakulabharanam, 2010: 67-76).

The Unorganised Workers Social Security Bill, 2007 has been already passed by both the houses of the parliament. At the time of Union Budget 2009-10, the Finance Minister ensured that social security for some selected occupations – weavers, handicraft workers, plantation labour, construction labour, mine workers, rickshaw pullers etc. will be implemented at the earliest possible time. Even after this development, there is no initiative to ensure the implementation of this policy among large sections of Indian work force. Neoliberal economy is encouraged in many developing countries because informal labour force is fending for itself, and more and more workers are accumulated to the army of informal job market. Jenkins (1993: 3-20), has noticed that developing country's workers are more who are working without any formal protections (in Africa it is 90 %) than the developed countries. ILO and other Ministries of Labour have assumed that all workers would be transformed or end up in any formal sector, but recent labour market has shown the contrary situations all over the world (Ginneken, 2002: 49-69). Informal labourers are living on a day-to-day basis and are also bared to different risks and catastrophes which can push them under the state of permanent indebtedness and other obligations. According to Ginneken (2002), social security can provide three basic options for increasing people's control over their life and extending coverage to informal sector workers and other vulnerable groups in society: i) through specially and self-financed social insurance schemes, ii) through social assistance, and iii) through extension and reform of the existing formal sector social insurance. The ILO also experimented with these options

through some pilot projects in India, Benin, Tanzania and El Salvador. This project tries to reinforce the social security agencies, government, NGOs to build and implement different social security schemes for informal sector. This project also sets up all three proposed options; feasibility studies of these implementations for these countries have been done. The project also works on micro insurance schemes and its impacts on informal labourer's life – especially in health sector (Ginneken, 2001: 59-79). On the basis of the experience gained with these projects, the social security partners too can then be trained and helped to formulate their own policies and activities with regard to social security for workers in the informal sector; apart from so many projects or experiences, in reality the possibilities of implementation are acted as dream project in India.

India's workforce is categorised by labour segmentation wherein employment security and social security is totally absent in the informal sector. Considering the coverage of social security schemes, 55<sup>th</sup> NSSO, 1999-2000 shows that eighty-five percent of non-farm workers (SCs and OBCs) are not getting any social security, and for other categories seventy-five percent are under this sore situation. Among the informal economy, there is very minimal opportunity to get the benefit of social security (Sakthivel, Joddar, 2006).

All above discussions acquired importance as my field study showed the same experiences at Rangpo and Singtam town. My respondents at these two towns have ranked the social security option at ninth position which divulges the fact that in Sikkim migrant informal labourers are not getting any benefit regarding social security option, though neighbouring state of West Bengal that supplies a large chunk of informal workers to Sikkim has introduced "*Samajik Surakha Yojona Scheme*" in 1<sup>st</sup> April, 2017 for informal labourers. The scheme declares, after registration the labourers would get social security identification number which would provide them with provident fund, health care benefits, education benefits for children and accidental benefits. According to state labour office (West Bengal) only 5.3 million workers enlisted their name under this scheme, whereas the state had nearly two crores of informal workers who were working in construction sector, as *beedi* binding worker, casual worker etc. (Bartaman, 10<sup>th</sup> March, 2018). Unfortunately, my field work also found the fact that migrant labourer who have come from West Bengal (73.14% at Rangpo and 64.57% at Singtam) are not properly aware of this social security scheme. Only, 3.90% respondents at Rangpo and 7.07% at Singtam town have social security identification card number. However, these benefits are offered at the place of origin, not in the host state Sikkim. It is

not a unique fact for the migrant informal labourers in Sikkim: they are coping with the same situation in other parts of the country. Although migrant labourers are investing their labour for the production in the destination area, in return they are not receiving any social security benefits from the host area. The social security measures needed in the informal sector are extensive but in reality they are limited due to small funds and lack of readiness. Preclusion of different schemes create obligations to apply social security measures for vulnerable, precarious informal labourers, but on the other hand it is also true that many schemes that have evolved in India with the help of legislations and policies to protect informal labourers are mostly integrated with Rural Development Programme. In Sikkim too, the state government has promoted and followed different laws and policies to protect Sikkimese or local labourers, whereas migrant labourers are not able to access even the basic security.

### 5.5 Retention Strategies

Return of migrants is an unavoidable facet of any short term, temporary/seasonal and also of contract migration. The demand of unskilled and semi-skilled labour in Sikkim is still high due to the lesser participation rate of local (Sikkimese) people. The ‘trans-border’ (among states) movement of labour has challenged the ‘assimilation models of migrants’ integration.

Table no. 5.6

#### **Different Reasons for the Return Migration**

<b>Reasons behind return migration</b>	<b>Rangpo Town</b>	<b>Singtam Town</b>
<b>Sikkim’s state policies</b>	76%	73.14%
<b>Different physical environment</b>	6.68%	9.71%
<b>Different cultural environment</b>	5.14%	6.28%
<b>Willing to start new occupation at native place</b>	12%	10.86%

Source: Field Survey, 2016-17.

It has also challenged the modern political protocol of the nation-state and citizenship concepts, especially in case of Sikkim (Sikkim Subject or COI). Although the state is under the Indian Union

Territory but to enjoy the benefits from the state, a person should be of Sikkimese origin. De Hass, (2010: 247) rightly stated “The implication is that clear-cut dichotomies of “origin” or “destination” and categories such as “permanent,” “temporary,” and “return” migration are increasingly difficult to sustain in a world in which the lives of migrants are characterised by circulation and simultaneous commitment to two or more societies or communities.” In Sikkim most of the migrants are willing to return to their native place for various reasons. Table no. 5.6 represents the reasons behind their decision to return from Sikkim (Rangpo and Singtam).

I have already discussed Sikkim’s policy (Sikkim Subject/COI) of facilitating only the people of Sikkimese origin. So, the migrant labourers are not prone to stay back in their destination area even if they wish so; 76% and 73.14% respondents at Rangpo and Singtam have cited Sikkim’s state policies as the prime reason behind their decision to return home. Another set of respondents are eager to return to their native states due to comparatively colder environment in Sikkim with which they could not adjust. 6.68% (Rangpo) and 9.71% of the (Singtam) respondents are in this category. They frequently suffer from fever, cough and cold and even pneumonia. My respondents have come from the plains and their culture is totally different (will discuss in the next chapter) and at times it gets tough for the newcomers to adjust to the new culture. However, very few respondents, 5.14% and 6.28% at Rangpo and Singtam respectively return for this reason, that too because there is no other choice for the vulnerable informal migrant labourers in this contemporary globalised market. There is paucity of information on occupational structure, resource position, skill enhancement, and investment capabilities of the return migrant labourers. In my field study I have observed that 12% and 10.86% of the respondents have plans to return to their native place to start a new venture (small shop, small tea garden, etc.); they come only to earn more money, so that they can fulfill their wish in future. The respondents assign this to rank two (Rangpo) and rank four (Singtam) respectively. Although this return flows differ according to job structure and age group, in some cases (e.g. construction workers) by default the labourers leave Sikkim but move towards another destination. This has impaired the scope of formulating purposeful plans for retention strategy of the migrant labourers.

## **5.6 Union Rights**

In the era of post-liberalisation in India, there have been numerous changes in labour landscape. Agnihotri, (2005) claimed that neoliberalism has a tendency to introduce privatisation and informalisation through casualisation and flexibilisation of labour (Bhandari, 2008). These



tendencies are also diminishing the power of traditional structure of unions and forming a new space to establish new eccentric constituencies in the informal labour market (Sunder, 2006: 903-918; Mohanty, 2009). There have been four remarkable divisions in the history of Indian trade unionism which passed through different ups and downs and crises. It starts from the state control over labour movement (first phase) to intense political and economic crisis (third phase) and last phase (fourth phase) has been characterised by the liberalisation, privatisation, and globalisation which facilitated high growth in tertiary sector (Mukherjee, 2013: 1-29). Susie Tharu and Tejaswini Niranjana (1996: 232-260) have mentioned this as “Mandal/Mandir/Fund– Bank years”. The neoliberal policies (1990s) are responsible in accompanying new arena of the labour management strategies. Different scholars have their own views to explain the impact of globalisation on labour market – with the fact that employers gained the power of bargaining. In this regard, Kalarivayil and Nair’s (2018: 48) observation may be cited: “The differential mobility of capital in comparison to labour and outsourcing of production to informal sector diminished the bargaining power of worker unions”. Moving towards labour flexibility through contract labour and renunciation of labour union power used to be the prime impact of globalisation on labour market (Sunder, 2015: 43-53) which is very much predominant in informal sector where casual labour intake is maximum. There are various forms of unionisation in the informal sector also which have been adopted by different groups of organisation. CTUOs [Central Trade Union organisations] took the initiative to organise labourers in the informal sector. Along with this there are other organisations such as TUCC [Trade Union Coordination Centre], CITU [Centre of Indian Trade Union], UTUC (LS) [United Trade Union Congress (Lenin Sarani)] etc. that have large informal labourers as members in their organisations. These units are organising labourers who are working in the informal sector and trying to secure their rights by dealing with their problems and demands (Sunder, 2006: 903-918). There are different NGOs also facilitating unionisation of informal workers like SEWA [Self Employed Women’s Association].

My field unfolds another truth, namely, the control of state on the formation of new union and even joining of migrant labourers in any existing labour union in Sikkim. They cannot get consent from their employers to take part or even to register their names in any existing local labour unions, whereas 90% of the state’s informal economy is based on the migrant labourers.

In reality workers’ collective rights were totally overlooked in the state of Sikkim for the migrant informal labourers. The Indian Constitution clearly recognised the relation between decent work

conditions and the promotion of informal sector. Article 39 and 42 of the Directive Principles give importance on the goals and humane conditions of work, but Article 43 emphasised not only the provision of minimum wage, but also for the “conditions of work ensuring a decent life”. Under the National Commission for Enterprises in the Unorganised Sector, the government of India has provided various suggestive measures to transform the informal economy, though none of these suggestions can be interpreted as a suitable format for the development of a foundational framework when viewed in the light of migrant informal labourers’ standpoint at Rangpo and Singtam. The possibilities to get a minimum security through the unionisation have become very low in this state. They have been treated as foreign labourers, though Sikkim merged with India in 1975. There is no scope to be a citizen of Sikkim or getting Sikkim Subject or COI for these migrant labourers. Flecker (2007: 6-9) has rightly said in the context of foreign migrant worker’s condition in Canada (huge temporary, unskilled, semiskilled migrant foreign labourers are not eligible for permanent Canadian citizenship) that “Guest workers are fleeced by unscrupulous labour brokers who charge exorbitant ‘processing fees’ in exchange for work permit; workers are misled with false promises about wages and working conditions; they are exploited, intimidated and threatened with deportation by some employers unless they accept terms akin and to indentured servitude; they are faced with social isolation and separation from their families and communities; and additionally, they are sometimes exposed to sickening doses of racism and discrimination from the communities in which they work.” (Evans and Gibb, 2009: 23).

### **5.7 Can Policies Help Reduce Politics Over Informal Economics?**

“The labour landscape in India has seen several changes subsequent to the introduction of labour market deregulation policies” (George and Sinha, 2018: 17). Different studies proved upsurge of atypical employment expansion of informal sector (Gupta, 1995: 1295-1311; Maiti and Mitra, 2010) and other ways of casualisation and informalisation of labourers (Golder, 2010). Labour disciplining and control strategies by enforcing laws by the state are the determining factors of the labour space in any country. Temporary/seasonal labour migration has often been regarded as a path to ‘square the policy circle’ (Winters, 2003: 111-146; Amin and Mattoo, 2005: 1-52; World Bank, 2006a, 2006b) because it does precisely that: it balances the economic needs on the sending and receiving sides while addressing the difficult goals of employment and stability creation for the more vulnerable sections of society.

The ongoing political experiments by the policy-makers between people (other than migrants) and bureaucracy would not be successful without considering the wellbeing of migrant labourers in the ever growing informal sector. Central Labour Ministry has introduced recently new social security scheme proposals to support social security and to cover different benefits for migrant informal labourers under the Employee Provident Fund [EPF] and Employee State Insurance [ESI] in different states of India. The basic need is to evolve an approach which is resolutely rooted in the sphere of work while recognising the contribution of the people in the informal economy. This is not only for the growth of national income but also for employment itself.

In reality, there is an ongoing, constant cross-state competition to attract investors, and it has become a leading concern in the role of government. If states want to retain or attract these investments, then they will have incentives to weaken their existing labour laws (Mostey and David 2015: 283-301). This propensity may lead states to fail in offering labour rights, individual working conditions as well as to enforce domestic labour legislations (Przeworski A and Wallerstein M. 1988: 11-29). Sikkim too has these possibilities. Moreover, there is a provision of exclusive privilege to 'Sikkimese only' in the economic, social and political arena on the basis of the Article 371 F. Sikkim government even tabled a bill – to reserve 95% of jobs for the Sikkimese in all private sector businesses operating (registered under Sikkim's Registration of Companies Act, 1961 or the Companies Act, 1956) within the state. The bill's target was to promote benefits to solely those who possess COI or Sikkim Subject status. In this regard, Bikash Ranjan Bhattacharya, a Constitutional expert stated "The bill will be considered as ultra vires to the Constitution and will be struck down by the judiciary" (The Telegraph. 08.03.2008: 1). Sikkim's state policies are always ready to promote and protect her local labourers. There is no room for the livelihood security of the migrant labourers except the minimum wage protocol.

Through a close observation of the spacio-temporal lattice of informal sectors in Sikkim, my research reveals the fragility of Sikkim's economy, as well as the migrant human resource value chains by the state's policies and also through market forces. While the entire informality is based on labour intensity, relative opacity, and embodied knowledge, it certainly, is able to create a 'bodily' experience for space and gives the power to informal economy to resist external forces and to subsume or transform them in formal sectors (Lindell, 2010: 1-229). Lack of job security and social protection in Sikkim also portrays that wage workers and micro employers live on a thin line between failure and survival. This renders them vulnerable and precarious. The upshot is that the informal labourers are in critical situation to maintain the quality of life. These workers are

regularly stigmatised, exploited, and made frequently invisible in policy decisions of the host as well as in the source states. It shows an enduring inequality that demands proper policy adjudication. Cities and towns are often considered as brooding places of imagination, creativity, innovation, and the ever new and different. However, cities and towns also hide in their underbelly perverse and pervasive processes of social exclusion and marginalisation and are rife with all manners of struggle, conflict, and often outright despair in the midst of the greatest affluence, abundance, and pleasure (Swyngedouw, Moulaert and Rodriguez, 2002: 547-582). This seems to be the case when one is to assess Sikkim's prosperity in the light of the concerns of migrant informal sector labour.

## **5.8 Regulations and Protective Measures for Informal Labourers**

The overall improvement of informal workers depends on their own agency as well as on the state policy (origin and destination) and regulatory framework, different approached programmes and stakeholders who can help contouring their livelihood. There are three groups of central laws which are regulating the work conditions of the informal labourers. Especially two groups are truly applying those for the informal labourers for regulating and protecting their conditions of work. In Indian Constitution, labour is one of the concurrent positions and regulation of the condition of work is enlisted in entries No. 22, 23 and 24 of List III in the 7<sup>th</sup> Schedule. However, labour regulation and protection is the domain of central as well as the state government. Central government has passed different laws but the implementation and coverage of these laws are firmly dependent on the state government. I am considering following laws in in the context of the migrant labourers in Sikkim.

### **5.8.1 The Minimum Wage Act (1948)**

This act has been applied for the agricultural and non-agricultural workers who are engaged in the scheduled employments. Broadly, this Act is regulating duration and timing of work as well as proper remuneration including night work, paid holidays during the week at workplace. Thus, it covers the “wage workers and homeworkers but not self-employed” (NCEUS, 2007: 159). Sikkim government is implementing this act in terms of minimum wage provisions even for the migrant informal labourers but other aspects like working hours, night work paid holidays, weekly holiday are not applicable for the migrant labourers. These are the focused areas – for the demand of migrant labourers and to avoid local labourer's temperament hampering.

### **5.8.2 Contract Labour (Regulation and Abolition) Act (1970)**

This Act has been applied to every establishment where twenty or more workmen are employed or were employed in any day of the preceding twelve months as contract labourers. This Act does not apply to establishments that involve only an intermittent or casual nature of work. Under the Act, the appropriate government is liable to prohibit employment of contract labour in any process, operating or other work in any establishment, having regard to the conditions of work and benefits provided for the contract labour in that establishment and other relevant factors, such as whether or not nature of work is incidental necessary to the main operation, whether or not it is perennial in nature, that is to say, if it has sufficient tenure, whether or not it is done ordinarily through regular workmen in that/other establishment(s), and whether or not it is sufficient to employ considerable number of whole time workmen. For security of wage this Act provides for its payment by the contractor, and in case of failure by the principal employers. This Act also provides license to be taken depending on such conditions including, in particular, as to hours of work, fixation of wages and other essential amenities in respect of contract labour. This Act contains other welfare provisions related to health, canteen, drinking water, first aid facilities, and so on.

The Sikkim unit of Bharatiya Janata Party demanded the abolition of the labour contract system on 7<sup>th</sup> May 2018 alleging this as ‘discriminatory, inhuman and biased’. D.B. Chauhan (BJP state unit president) said in the submitted memorandum that “The labour contract system prevalent in Sikkim is highly discriminatory, inhuman and biased which needs to be abolished at the earliest.... We, therefore, give an ultimatum of one month to the labour department to end this cruel system” (Ravidas, 2018: 10). In 2005, on May Day, Sikkim Chief Minister had promised to abolish the contract system by amending the Sikkim Labour Protection Act, 2005, where he also ensured the direct employment of local labourers in the companies and factories functioning in the state. In the existing labour contract system in Sikkim, most of the companies/factories hire labourers via contractors. These hired labourers are not entitled to any employment benefits. Along with this memorandum, BJP also submitted a six-point memorandum including the demand of equal pay for casual workers and improved work environment and equal benefit for local (Sikkimese) as well as non-local (migrant) labourers.

### 5.8.3 Workmen's Compensation Act (1923)

This Act is applicable for few specific workmen by their employers to provide compensation for injury by accident at the work place. It considers those other than the casual and self- employed labourers. This Act offers employer's accountability for providing the compensation. In Sikkim, if the employee is a registered Sikkimese labour and if any accident happens, then after intimation to the state labour office, state government is also liable to provide compensation. In Sikkim if any labourer has been employed through a *thikadar* and gets registered under the project contractor, he is entitled to get the compensation. It is not maintained properly because the project contractor is getting certain number of labour license from the state and in practical field the labour participation rate is more than the license numbers and these extra labourers are not entitled to get any benefit from the Workmen's Compensation Act. Even those migrant labourers who are working in hazardous occupations (construction labourers, for example) are not entitled to any compensation for accidents happening during the course of their employment. According to a report published in newspaper, The Statesman (10.3.2006: 01), there were two casual labourers from Jalpaiguri district of West Bengal, engaged in construction site in East Sikkim who were killed due to the collapse of a three storied building. It was reported that more than 200 labourers from different parts of the adjacent states were employed in that project. Unfortunately, there was no allusion/intimation of any possible compensation for those dead labourers' families.

Fig no. 5.4

#### Migrant Labourer at Building Construction Site



Source: Field survey, 2017, Singtam town.

#### **5.8.4 Weekly Holiday Act (1942)**

This Act provides the grant for weekly holidays to the employees who work in shops, theaters, and restaurants. Every employee, other than the ones in managerial position is allowed to get one whole day holiday in every week – without any deduction of wages. According to my field survey in Sikkim, out of sixty hotel/restaurant workers (respondents in Rangpo and Singtam) none enjoy the benefit of this particular Act. Sikkim state government is implementing this Act only for the local people, not for the migrant workers.

#### **5.8.5 Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act (1979)**

It is an important Act for the migrant labourers for availing various security options in the destination area. This Act is applicable for those establishments where five or more inter-state migrants are employed and also for those contractors who employ five or more inter-state migrant contract/casual labourers – less than five inter-state migrant labourer employing establishments are exempted from this Act. This Act includes technical, clerical, skilled, semi-skilled or unskilled labour, but does not consider any personnel who are in managerial or administrative post. This Act is providing benefits of wage rates, working hours, holidays and other security (displacement allowance and journey allowance) as the other labourers are entitled to get for similar kind of work. It also ensures other important benefits like medical facilities, compensation for any fatal accident or severe injury to the workmen.

In real field these benefits are not implemented, and there is also a lack of awareness among the migrant labourers about their rights and the existence of laws. To avoid the application of this Act, establishments/contractors take small number of licenses and employ less registered labourers. Often they hide their real workmen strength. In Sikkim, the demand of inter-state migrant labour is very high but the registered number of employees is very small in every informal sector to avoid the implementation of the Act. The record of prosecutions has been weak because migrant labourers do not have proper identity proof as proposed by law and also their interactions with the employers have been very feeble.

### **5.8.6 Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act (1996)**

This Act is applicable for those establishments that employ ten or more buildings or other constructions labourers. It has the provision to promote safety of health and other wellbeing measurers. This Act exempts those establishments that engage less than ten workers. With regard to this aspect, there is a discrepancy in the implementation of the act. In order not to provide the benefits of this act to their employees, establishments and contractors conceal the actual number of labourers enrolled, showing smaller number instead. Another malpractice is acquiring lesser number of labour licenses from the destination office than the actual number of labourers in a project, so that a very small number of labourers are actually provided with the benefits. This Act also has provisions for fixing working hours, weekly holiday, overtime wages and other benefits viz. drinking water, first-aid, canteens etc. Out of the 130 construction workers I have interviewed, none is aware of the benefits they can potentially derive from this act, which leads to their continued exploitation.

### **5.9 Development of Possible Coherent and Comprehensive Labour Migration Governance (in destination and place of origin)**

The policy recommendation is beleaguered especially at migrant labourer, in terms of improving their living conditions and also the working conditions. Inequality is high between the Sikkimese and non-Sikkimese labourers in Sikkim, and only proper policy implementation would improve circumstances of the migrant labourers. The ILO Multilateral Framework on Labour Migration offers various guidelines for governance and national policies (ILO, 2006). To improve the overall conditions there is need to establish different key elements and reformation and application of state policies. The foremost areas that need to be taken care of are as follows:

- a. Collection and analysis of labour market data should be improved.
- b. Formulation and appropriate implementation of state's labour policies (both at the place of origin and destination).
- c. Proper link among government, employers and workers to identify the actual needs of labour market as well as to collect the information regarding demographic and social aspects of the labourers in the destination and origin areas.
- d. Regulation and transparency of migrant labour recruitment processes.



- e. Orientation and information to migrant and potential migrant labourers regarding various rights, legal frame work, security options, working conditions, risk of irregular migration and different support systems to enhance better and decent work environment.
- f. Providing opportunities to incorporate migrant labourers into the unions and other community associations.

Along with the destination areas, the origin area also should take the responsibilities for ensuring protection for potential migrants or seasonal/temporary migrants.

### **5.10 Conclusion**

In Sikkim, prevalent state laws for unorganised/informal sector workers are 1) The Sikkim Labour Protection Act, 2005 and 2). The Sikkim Shops and Commercial Establishments Act, 1983. These laws are applicable for Sikkim's local people and not for the migrant labourers. There is a provision for exclusive privilege to the Sikkimese in the spheres of economic, social and political arena on the basis of COI/SS, provided by the Sikkim government. Unfortunately, migrant plainmen labourers are not allowed to enjoy any benefits. Migrant wage labourers are rendered vulnerable as a group in terms of economic exploitation due to ineffective implementation of labour laws. The adaptation of different laws or policies by the Sikkim government to protect locals is quite common, but government does not provide COI or SS to those people who have migrated to Sikkim after merger with India. It has been noticed that plainmen labourers in contemporary times are treated like foreigners in terms of enjoying the logistical benefits provided by the government. Vulnerable migrant workers are clear beneficiaries of the minimum wage implemented by the government of Sikkim, but nothing else. This government introduced 'minimum right' (minimum wage) legislation to provide protection of the migrant informal labourers. Employers in Sikkim prefer to endorse temporary labour contract (without any agreement) to cut cost (Green, 2008: 153). There is a necessity for bringing various categories of informal sector under one umbrella for implementing any policy to assist informal labourers in true sense. The policy measures should take care of the existing rights of the informal labourers rather than creating 'parasite middle class' through bureaucratic and political support. Scaling up different Labour Laws and Acts for safety coverage of migrant informal labourers would go a long way toward reducing the degree and intensity of precariousness. There are different strategies which can confront different problems rooted in the informal workforce. Evans and Gibb (2009: 1-70), give emphasis on 'flexicurity'

(European context)<sup>14</sup> and ‘community unionism’ to solve arising problems in neoliberal flexible informal labour market, though these strategies are already being introduced in various geographical, socio-economic context to solve the problems related with vulnerable precarious group of labourer in the world.

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<sup>14</sup>Flexicurity: The concept of flexicurity has evolved in a European context. The attraction of this policies arguably originated in Denmark. It is a combination of flexibility and security and has aims to maintain labour market and firm based flexibility to diminishing precariousness. The policies which contributed to the broad concept of this are nothing but negotiated compromises. [Evan and Gibbs].

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