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## A STUDY ON LABOURERS AND THEIR PROBLEMS IN UNORGANIZED SECTOR IN INDIA

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### ABSTRACT

This study has made an attempt to analyze the labours in the unorganized sector and the problem that they face and welfare measures adopted by their employer and government. The basic purpose of labour welfare is to enrich the life of worker and keep them happy. Labourers spent most of their time at work. It can be seen and understood that these workers help in the infrastructural development of the country, which is one of the most important role in the economic development of the country. Workers belonging to this sector have less job security, poorer chances for growth, no leave or paid holidays. It is doubtless to say that majorities of them live under below poverty line and fails to fulfil their basic requirements. It can be clearly seen that unorganized labours are living their life below the minimum standards level. There are number of legislations for the security of the labour force but those laws are routinely executed in organized sectors yet in actuality, it is not used methodically in unorganized sectors. The Ministry of Labour, Government of India, has categorized the unorganized labour force under four groups in terms of Occupation, nature of employment, especially distressed categories and service categories. This paper focuses on the various problems faced by the workers of unorganized sector, critically analyses the unorganized workers social security Act, 2008, emphasis on the role of judiciary and enlists certain recommendations.

**Keywords:** Labour, Unorganized sector workers, social security, occupation, infrastructure

**Introduction:**

In the early 1970s, the International Labor Organization launched a series of initiatives to identify and analyze the area through its World Employment Program, which is when the idea of an informal or unorganized sector first gained international attention. The development strategy focused on economic growth—which prioritized employment as the main goal of development—was principally highlighted by missions in Kenya, the Philippines, Sri Lanka, and Columbia.<sup>1</sup> It was British economist Keith Hart who first used the phrase "informal sector" in 1971.<sup>2</sup> A nation's ability to expand its economy depends on its labour force. To strengthen their economies, the nations never stop attempting to develop their labour force. There is an unorganized labour force in practically every nation. But in India unorganized labourers are more, our nation is making every effort to decrease this industry by providing unorganized workers with a range of social advantages. The employment rules in our nation are currently being revision in response to the shifting economic landscape.

An unorganized worker plays a pivotal role in society. Here are some of the reasons why:

- **Employment generation:** In India, about 80% of the workforce is made up of unorganized labour. These individuals are engaged in a variety of industries, including as manufacturing, services, construction, and agriculture. As a result, the industry contributes significantly to national employment.
- **Contribution to GDP:** The unorganized labor sector also makes a significant contribution to India's GDP. This is due to the large number of workers employed in the sector, as well as the the fact that many of these workers are engaged in low-cost and labor-intensive activities.
- **Flexibility and adaptability:** Another quality of unorganized labor is its adaptability and flexibility. Since many people in the industry are independent contractors or self-employed, they may react swiftly to shifting market conditions. As a result, the sector now plays a significant role in India's informal economy, which is renowned for its ability to withstand shocks to the economy.

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<sup>1</sup> R.S. Tiwari, *Informal Sector Workers: Problems and Prospects*, (New Delhi: Anmol Publishers) 2005 Edition, p.5.

<sup>2</sup> Kanak KanthiBagchi and Nirupam Gobi, *Social Security for Unorganized Workers in India* (Gurgaon: Madhav Books) 2012 Edition p.22.

- Support for other sectors: In addition, the unorganized labor sector supports other economic sectors. Employees in this industry, for instance, can help other companies with transportation, catering, and cleaning so they can concentrate on their main business operations.

### **Meaning of Unorganized sector:**

According to International Conference of labour Statisticians the terms unorganized and informal sectors are often used interchangeably.

The first national commission on labour, under the chairmanship of Hon'ble Justice Gajendragadkar, defined the unorganized sector as the part of the workforce 'who have not been able to organize in pursuit of common objective because of constraints such as

- Casual nature of employment
- Ignorance and illiteracy
- Small size of establishments with low capital investment per person employed,
- Scattered nature of establishments and
- Superior strength of the employer operating singly or in combination.<sup>3</sup>

Section 2(l) of unorganized workers' Social Security Act, 2008 defines 'Unorganized sector' as an enterprise owned by individuals or self employed workers and engaged in production or sale of goods or providing service of any kind whatsoever, and where the enterprise employs workers, the number of such workers is less than ten.

Section 2(m) of the Act further stipulates that unorganized worker means a home-based, self employed worker or a wage worker in the unorganized sector and includes a worker in the organized sector who is not covered by the acts mentioned in schedule II of the Act that are:

- The Workmen's Compensation Act, 1923.
- The Industrial Disputes Act, 1947

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<sup>3</sup> Government of India, Report of National Commission on Labour, (1969) p.417.

- The Employees' State Insurance Act, 1948
- The Employees' Provident Funds and Miscellaneous Provisions Act, 1952
- The Maternity Benefit Act, 1961
- The Payment of Gratuity Act, 1972

### **Objectives of the study:**

Most specifically the study makes an earnest attempt by having the following as its objectives:

1. To bring out the problems of unorganized sector
2. To study the welfare and social security provisions for unorganized sector workers.
3. To suggest some measures to solve the problems of unorganized workers.

### **Classification of unorganized labour:**

The unorganized worker has been classified into 4 categories-

- **By Occupation** – small and marginal farmers, landless agricultural labourers, share croppers, fisherman, those engaged in animal husbandry, beedi rolling, labelling and packing, building and construction workers, leather workers, weavers, artisans, salt workers, workers in brick kilns and stone quarries, workers in saw mills, oil mills etc.
- **By nature of employment** – bonded labourers, migrant workers, contract and casual labourers etc.
- **Specially distressed Categories** – toddy tappers, scavengers, carriers of head loads, drivers of animal driven vehicles, loaders and unloaders, belong to the especially distressed category.
- **Specially service category** – domestic workers, fisherman, barbers, vegetable and fruit vendors etc.<sup>4</sup>

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<sup>4</sup> <http://vikaspedia.in/social-welfare/unorganised-sector-1/categories-of-unorganised-labour-force>

**Major characteristics of the unorganized workers:**

- India is home to a vast population of unorganized laborers due to their overwhelming numbers.
- The bulk of unorganized workers lack secure, long-term job opportunities because the unorganized sector experiences periods of severe seasonality in employment. There is concealed unemployment since even those who seem to be clearly employed are not gainfully and meaningfully employed.
- The workplace is scattered and fragmented.
- There is no formal employer-employee relationship
- The unorganized labor force in rural regions is strongly stratified according to caste and community factors. Although these factors are far less prevalent in urban regions, it cannot be said that they are nonexistent because the majority of unorganized laborers in these places are essentially migratory laborers from rural areas.
- workers in the unorganized sector are usually subject to indebtedness and bondage as their meager income cannot meet with their livelihood needs.
- Significant exploitation of unorganized labor occurs from the rest of society. Their working conditions are subpar, and their earnings are far lower than those in the official sector, even for positions that are almost equivalent in terms of labor productivity. The job status is one of lower pay and employment conditions, as well as lower quality of work product.
- The unorganized workers do not receive sufficient attention from the trade unions.
- Inadequate and ineffective labour laws and standards relating to the unorganized sector.<sup>5</sup>

**Problems faced by the Unorganized workers are:**

90% workforces are engaged in huge informal sectors. They, by and large, face various types of problems in their regular life like they stay very close to their workplace; extending working

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<sup>5</sup> <https://www.ijrbsm.org/pdf/v2-i12/6.pdf>

hours is a regular practice, exploitation and hazardous workplace are very common.

- **Irregularities and inability to secure even minimum wages:**

The Hon'ble Supreme Court explicitly stated in **Peoples' Union for Democratic Rights v. Union of India**<sup>6</sup> that employing workers at wages rates below the statutory minimum wage levels was equivalent to forced labor and prohibited under Article 23 of the Indian Constitution, even though economic compulsion might lead one to volunteer to work below the statutory minimum wages. The majority of studies on conditions of employment in the unorganized sector have looked at wage levels and earnings of workers and found that the daily wages are below the minimum rate of wages. The various states and union territories have different pay structures. This is also due to applicability of the Minimum wages Act only to certain employments which does not include all workers.<sup>7</sup>

- **Maximum workers do not have any perfect living areas near to their work place:** The majority of employees in the organized sectors receive housing allowances, housing boards, and bank loans from various statutory banks to build their own homes. Sadly, employees in the unorganized sectors are not granted access to any of these benefits, and as a result, they frequently deal with unfair conditions, especially those that affect women workers. As a result, they tend to congregate in small spaces within their communities without proper sanitation facilities. They also fight against a variety of unsanitary situations, such as overflowing drainage systems, sewer seepage frameworks, and floods during storms.

- **They do not have any knowledge about work hazardous and occupational safety:**

Several unorganized laborers tragically die as a result of the introduction of hazardous machinery, the rapid growth of the construction industry, unguarded machinery, various toxic chemicals, coal dust, lime dust, and blazes crude materials for synthetic generation. In addition, the working conditions in unorganized labor are more harsh than in organized labor, and the workers' knowledge of occupational health and safety is minimal.<sup>8</sup>

- **Overtime, paid holiday or sick leave are not provided to them:**

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<sup>6</sup> People's Union for Democratic Rights v. Union of India AIR 1982 SC 1473

<sup>7</sup> Government of India, "Report of the working of the Minimum Wages Act, (2013), p.1.

<sup>8</sup>[https://www.researchgate.net/publication/305728488\\_Labourers\\_of\\_Unorganised\\_sectors\\_and\\_their\\_Problems](https://www.researchgate.net/publication/305728488_Labourers_of_Unorganised_sectors_and_their_Problems).

Despite the fact that labor rules govern paid time off, overtime, and sick leave, however, a lot of temporary workers are excluded from those laws, but how those rights are applied in formal portions are typical.

- **They do not have idea on Trade Union/ labour union:**

Most of the workers are unaware about their rights of collective bargaining. Long working hours, social isolation, unemployment risk, illiteracy and lack of awareness are the major hurdles in organizing themselves.

Unfortunately, all the social security legislations and schemes fail to address the concerns of workers and there is a dire need of welfare programs. The need of the hour is to strengthen the social safety nets and prevent the exploitation of workers engaged in the unorganized sector.

- **Insecurity of Job:**

Most occupations are, for the most part, temporary, according to the research group of the second Labour Commission's sample survey of economic activities. It's possible to make just enough money from one or two jobs to get by. In addition, certain job types are seasonal while others are irregular. Agricultural laborers, for example, have sporadic and uncertain employment since jobs are available to them for just around three months out of the year; the other nine months are spent primarily without work and starving.<sup>9</sup> While the Mahatma Gandhi National Rural Employment ensure Act, 2005 was passed in order to ensure that people in the most underdeveloped areas of the nation would be able to work for at least 100 days, it is informal employment.<sup>10</sup>

- **Women and child workers are vulnerable and draw very low wages:**

Women and child labor have been shown to be the most susceptible groups among the uncoordinated work. An emerging marvel is treating women and children like domestic workers in metropolitan areas territories. The circumstances under which work done by women and children is completely uncontrolled, and they are often created to low pay and hunger-

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<sup>9</sup> Dr. Suresh Srivastava, "Social Security for Agricultural women in India", In: Debi.S. Saini editor, Labour Law, work and development (New Delhi: Westvill Publishing House 1995 Edition,p.106.

<sup>10</sup> National Commission for enterprises in the Unorganised sector, Report on Social Security for unorganized workers, 2006 p.22

stricken labor like conditions of captivity. They receive little pay in comparison to labor as adult men, in spite of their dedication to maintaining the same working hours likewise are cases of sexual, physical and maltreatment of women psychologically and young workers in households.

- **Lack of quality employment due to fraudulent acting of contractor:**

Numerous unorganized industries are not registered with the government, and the duration of employment of workers is irregular. Do not behave as bonus act, provident fund act, pension Act, Maternity and factories Act are adhered to in disorganized industries. Unstructured section is not governed by the judicial system, and taxes are thus not collected. As the employees' working hours aren't fixed. Additionally, occasionally they must crumble away on Sundays and special days. As they get daily pay for their daily labor, which is almost not the recompense suggested by the authority.

- **Loss of employment due to silly reason is a natural incident:**

There are innumerable illustrations of losing employment in unorganized sectors because of immaterial reason. There are numerous lawful commitments have been outlined to stop the embarrassment in the occupation although the majority of those lawful conventions are connected only in organized sectors.

- **Lack of Employer-Employee Relationship**

The majority of the businesses in the unorganized sector are unregistered entities. Aside from that, the first obstacle to applying labor rules to this industry is the establishment of a master-servant relationship. When an employee doesn't have any work on a given day, or occasionally for several days at a time, he chooses to work for multiple companies. Another challenge is that many remote workers use contractors, making it difficult for them to maintain a direct line of communication with their employers. This makes it simple for employers to fail to recognize these workers, which can lead to the denial of benefits under the Minimum Wages Act and social security benefits.

### **Social Security regime in India:**

- **Special legislations**



- **Schemes**

There are some special laws designed only for the unorganized class:

- **Contract Labour (Regulation & Abolition) Act, 1970:**

In addition to regulating contract labor employment in all establishments with twenty or more workers, it also lays out the conditions under which it may be abolished. The primary objective of the Act, as expounded by the Hon'ble Supreme Court in the case of **Gammon India Ltd v. Union of India**,<sup>11</sup> is to eliminate contract labor whenever feasible. In cases where complete abolition is not feasible, the Act aims to regulate the working conditions of contract laborers in a way that guarantees wage payment and the provision of essential amenities.

- **Inter-State Migrant Workers (Regulation of Employment and Conditions of Service) Act, 1979:** An Act to provide the employment of inter-state migrant workmen and to provide for their conditions of service.

- **Child and Other Adolescent Labour (Prohibition and Regulation) Act, 1986:**

An act that forbids the use of child labor—defined as anyone under the age of 14—in any setting, regardless of how dangerous it may be. A child may only work to support their family, in a family business, or as a child artist during the summer or after school. Adolescent labor (those between the ages of 14 and 18) may be employed under the Act as amended in 2016, with the exception of dangerous jobs or processes.

- **Building and Other Construction workers (Regulation of Employment and Conditions of Service) Act, 1996:**

This legislation aims to control the employment and working conditions of construction workers, including those working on buildings and other construction sites. It also addresses issues related to their welfare, safety, and health, as well as other related subjects. The Building and Other Construction Workers Act and the Cess Act were affirmed by the Delhi High Court in **Builders Association of India v. Union of India**,<sup>12</sup> ruling that the laws were consistent and not ambiguous, adhering to the basic principles of state policy. The Hon'ble Apex Court upheld

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<sup>11</sup> Gammon India Ltd. v. Union of India (1974) 1 SCC 596.

<sup>12</sup> Builders Assn. of India v. Union of India, 2007 ILR (2007)1 Del 1143.

the Delhi High Court's ruling in *Dewan Chand Builders & Contractors v. Union of India*, holding that the act's exclusive goal is the welfare of building and construction workers, which is directly related to their constitutionally guaranteed right to a life of basic human dignity as stated in Article 21 of the Indian Constitution. In a recent decision in **National Campaign Committee for Central Legislation on Constructional Labour v. Union of India & others**,<sup>13</sup> the Hon'ble Apex Court emphasized that, in their small way, construction workers contribute to the development of the nation as well as infrastructure. Perhaps when those tasked with putting the act and the cess act into effect realize this, Article 21 of the Constitution and parliamentary statutes will be treated with the respect they deserve.

#### • **Unorganized Workers Social Security Act, 2008:**

The Unorganized Workers' Social Security Act, 2008, is an Indian legislation aimed at providing social security benefits to unorganized workers. It covers various aspects such as health, maternity, old age protection, life and disability cover, and any other benefit as determined by the central government. The Act establishes a National Social Security Board to recommend schemes for unorganized workers and also mandates the creation of State Social Security Boards to implement these schemes at the state level. Overall, its objective is to extend social security coverage to those in the unorganized sector, who often lack access to traditional social security benefits.<sup>14</sup>

#### **Problems in Unorganized workers social security Act, 2008:**

The Unorganized Workers' Social Security Act of 2008 aimed to provide social security benefits to workers in the unorganized sector. However, some of the key problems with the act include:

1. **Limited Coverage:** The act has limitations in terms of coverage, leaving out many vulnerable workers who fall under the unorganized sector.
2. **Implementation Challenges:** Implementation of the act has been a challenge due to lack of awareness, resources, and infrastructure at the grassroots level.

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<sup>13</sup> National Campaign Committee for Central Legislation on Construction Labour v. Union of India, (2018) 5 SCC 607.

<sup>14</sup> <https://lawdocs.in/blog/labour-laws-in-unorganized-sector>

3. **Inadequate Benefits:** The benefits provided under the act may be insufficient to meet the needs of the workers, especially in terms of healthcare, old age pension, and maternity benefits.
4. **Registration Issues:** Many unorganized workers face difficulties in getting registered under the act, which hampers their access to social security benefits.
5. **Lack of Monitoring and Enforcement:** There may be issues with monitoring compliance by employers and enforcing the provisions of the act, leading to gaps in implementation.
6. **Informal Nature of Employment:** The flexible and informal nature of employment in the unorganized sector makes it challenging to effectively implement social security measures as compared to the formal sector.

Addressing these issues requires concerted efforts from policymakers, government agencies, employers, and workers' organizations to improve the reach, effectiveness, and inclusivity of social security provisions for unorganized workers.

#### • **Code on Social Security, 2020**

In the context of the Code on Social Security 2020, an unorganised worker typically refers to individuals who work in the informal sector without the benefits of formal employment, such as regular wages, job security, or social security coverage. These workers often engage in various types of informal employment, such as street vending, domestic work, construction labor, or small-scale agriculture. The Code on Social Security aims to extend social security benefits to such workers to provide them with financial protection and welfare measures.

The Code on Social Security, 2020 was enacted on the basis of the recommendations made by the Second National Commission on Labour, which stated in its report that the existing set of labour laws must be amalgamated on the basis of subject-matter. The Code was introduced in the Parliament in December 2019 and the Parliamentary Standing Committee submitted its report on 31st July 2020. Thereafter, a fresh Bill was introduced, namely the Code on Social Security, 2020 aiming to facilitate the implementation of labour laws, reducing the multiplicity of definitions, giving streamline to different authorities under various labour laws and ensuring basic concepts of benefits and welfare to the workers. Another major objective of this Code is

to promote relevant technologies to ensure the compliance and execution of the provisions there under.

The Code on Social Security, 2020 amalgamates and rationalizes the provisions of the following nine Central labour laws:-

- 1) The Employees' Compensation Act, 1923
- 2) The Employees' State Insurance Act, 1948
- 3) The Employees' Provident Funds and Miscellaneous Provisions Act, 1952
- 4) The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959
- 5) The Maternity Benefit Act, 1961
- 6) The Payment of Gratuity Act, 1972
- 7) The Cine Workers Welfare Fund Act, 1961
- 8) The Building and Other Construction Workers Welfare Cess Act, 1996
- 9) The Unorganized Workers' Social Security Act, 2008<sup>15</sup>

• **Schemes**

The various social security schemes for the unorganised workers are

- Indira Gandhi National Old Age Pension Schemes
- National Family Benefit Scheme
- Janani Suraksha Yojana
- Handloom Weaver's Comprehensive Welfare Scheme

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<sup>15</sup> [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3884382](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3884382)

- Handicraft Artesian Comprehensive Welfare Scheme
- Pension to Master Craft persons
- Janshree Bima Yojana
- Aam Admi Bima Yojana
- Rashtriya Swasthya Bima Yojana

### **Constitutional Protection to Unorganized Workers:**

A number of decisions demonstrate the judiciary's noteworthy contribution to the development of industrial jurisprudence, as well as its inventive ways and strategies for ensuring social justice for the weaker segments of society. Consequently, in order to remove the vulnerability of unorganized workers, the Indian court has always been quite proactive in expanding the scope of social security. **The Life Insurance Corporation of India v. Consumer Education and Research Centre**<sup>16</sup> case highlights the court's observation that social security is guaranteed by Articles 41 and 47, which places an obligation on the state to enhance public health and standard of living. the fundamental freedom to have a source of income from birth to old age in India. The Indian Constitution's founders included certain specific provisions pertaining to labor welfare in parts III and IV, which address the fundamental rights and Directive Principles of State Policy, respectively.

### **• Fundamental rights**

**Article 14:** The Indian Constitution envisions two distinct concepts of equality: equal protection under the law and equality before the law. According to Dr. Jennings, "equality before the law means that the law should be equal and should be administered similarly among equals. As a result, the rule is that similar things should be treated similarly rather than similarly unlike things. In **Randhir Singh v. Union of India**,<sup>17</sup> the Hon'ble Supreme Court ruled that while our Constitution does not specifically proclaim the idea of equal pay for equal work to be a fundamental right, it is unquestionably a constitutional goal under sections 14, 16, and 39(c) of the agreement. Consequently, in situations where there are disparate pay ranges due

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<sup>16</sup> Life Insurance Corporation of India v. Consumer Education and Research Centre, 1995 SCC (5) 482.

<sup>17</sup> Randhir Singh v. Union of India, AIR 1982 SC 879.

to illogical classification, this entitlement may be upheld. In numerous instances, the Supreme Court has upheld this ruling.

The case of **Dhirendra Chamoli v. State of U.P.**,<sup>18</sup> established that casual workers working on a daily wage basis are also subject to the concept of equal pay for equal effort. It was decided that those working as casual employees for daily wages at Nehru Yuwak Kendra throughout the nation were performing labor equivalent to that of class IV employees appointed on a regular basis, and as such, they should be paid the same and have the same working conditions.

Labor exploitation occurs when minimum wage is denied. The position of dominance cannot be used by the government. An excellent employer should be the government. The Supreme Court ruled in *F.A.I.C. and C.E.S. v. Union of India* that government employees in the same post and carrying out similar work can be paid differently based on their level of responsibility, dependability, and confidentiality. As a result, the principle of equal pay for equal work, which is implicit in Article 14, will not be violated. Equal remuneration must be based on the type of labor performed, the court ruled. It cannot be evaluated based only on the amount of work done.

#### **Article 19(1)( c):**

This article contains every citizen's fundamental right to organize into unions and groups. It therefore encompasses the freedom to establish businesses, societies, partnerships, trade unions, and political parties. Not only is it protected to form associations, but it is also protected to maintain associations as such. As per the ruling in **Damayanthi v. Union of India**,<sup>19</sup> the freedom to form an association entails the right of the person founding it to remain connected with just those individuals they willingly permit into the association. A law that violates the freedom to create an association is one that introduces new members into the voluntary association without giving existing members the opportunity to opt out or that terminates the membership of those who willingly join. In addition, the state may legally place reasonable limitations on this freedom under Article 19(4) in the sake of upholding Indian sovereignty and integrity, public morality, or public order.

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<sup>18</sup> *Dhirendra Chamoli v. State of U.P.*, AIR 1986 SC 172.

<sup>19</sup> *Damayanti v. Union of India*, AIR 1971 SC 966.

**Article 21:**

The protection of the right to life granted by Article 21 is extensive and comprehensive. In the case of **Maneka Gandhi v. Union of India**,<sup>20</sup> the Hon'ble Supreme Court expanded the meaning of article 21 by ruling that it encompasses not only the right to bodily existence but also the right to live with human dignity. Giving further detail to the same opinion, the Court stated that the right to life extends beyond the existence of animals in **Francis Coralie v. Union Territory of Delhi**, Beyond just physical survival, it has deeper meaning. The freedom to live encompasses "the right to live with human dignity" and everything that entails it, including the bare needs of life like sufficient food, clothing, and shelter. It is not limited to the preservation of any faculty or limb that allows one to enjoy life or communicate with the outside world.

The right to livelihood is included in the definition of "life" in Article 21 of the Hon'ble Supreme Court, as decided by a five-judge bench in the well-known "pavement dwellers" case of **Olga Tellis v. Bombay Municipal Corporation**.<sup>21</sup> The supreme court adopted a similar stance in *D.K. Yadav v. J.M.A. Industries*, ruling that terminating an employee's employment without providing them with a fair chance to be heard is unlawful, unfair, and arbitrary. The process for taking away someone's means of subsistence must comply with Article 14's requirements, which means it must be reasonable and equitable rather than capricious, irrational, or harsh. When implementing the Minimum Wages Act, the Hon'ble Supreme Court noted in *Salel Hydro Project v. State of Jammu & Kashmir* that the provisions of Section 21 of the Contract Labour (Regulation and Abolition) Act, 1970 should be followed and that minimum wages to workers employed by subcontractors must be paid directly.

**Article 23&24:**

The right against exploitation is encapsulated in Articles 23 and 24 of the Constitution. The trafficking of human persons and forced labor, such as begging, are forbidden by Article 23. In accordance with these articles, the parliament passed the Employment of Children Act of 1938, which was one of the first laws to forbid child labor, as well as the Suppression of Immoral Traffic in Women and Girls Act of 1956 and the Bonded Labour System (Abolition) Act of 1976, which penalize acts that result in the trafficking of human beings.

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<sup>20</sup> *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

<sup>21</sup> *Olga Tellis v. Bombay Municipal Corporation*, AIR 1986 SC 180.

In a landmark decision in **People's Union for Democratic Rights v. Union of India**,<sup>22</sup> the Hon. Supreme Court ruled that using someone else to perform labor or provide services for less than the minimum wage set forth in the Constitution violates that worker's fundamental right to exercise the full range and extent of Article 23 of the Indian Constitution. The Apex Court ruled that human trafficking and beggar trafficking are forms of forced labor that violate human dignity and fundamental human rights, following a thorough review of the article's background. The court decided that when a someone works for less than the minimum wage, it is assumed that they are laboring under duress, which could come from physical coercion or law provisions against poverty, hunger, or want.

The Honourable Supreme Court ruled in **Bandhua Mukti Morcha v. Union of India**<sup>23</sup> that bonded labor is a primitive form of forced labor and that it violates article 23 of the Constitution. Furthermore, it was decided that the state had a constitutional duty to protect everyone's fundamental rights, especially if they are members of the community's weaker segments and are unable to defend themselves against a strong adversary who is taking advantage of them. The Honorable Apex Court stated that bonded laborers, being non-human entities, lead a life that is worse than that of animals, who are at least free to go around as they like, in response to criticism of the abhorrent state of bonded labor. The Hon'ble Supreme Court went further in *Neeraja Chaudhary v. State of Madhya Pradesh*, holding that the State had violated Articles 21 and 23 by failing to identify the bonded laborer, free them from bondage, and provide for their rehabilitation as required by the Bonded Labour System (Abolition) Act of 1976.

### **Directive Principle of State Policy**

Examining the Directive Principles of State Policy listed in Part IV of the Constitution, the state intends to strive for an equitable society in which social justice is upheld and every citizen has equal opportunities. This is reflected in Article 38 of the document. The "magna carta" of industrial jurisprudence in the Indian setting is regarded as Articles 39, 41, 42, 43, and 43-A.

In addition to outlining a number of values that are intended to be upheld by legislation, Article 39 supports the notion of pursuing social equality. Article 39(A) acknowledges, for example,

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<sup>22</sup> *People's Union for Democratic Rights v. Union of India*, AIR 1982 SC 1473.

<sup>23</sup> *Bandhua Mukthi Morcha v. Union of India*, AIR 1984 SC 802.



that every citizen has the right to a sufficient means of subsistence. This notion is consistent with Article 21's emphasis on preserving people's fundamental dignity. The necessity to prevent negative effects on employees' health and strength as well as forcing them into inappropriate employment is emphasized in Article 39(e). The Hon'ble Apex Court ruled in **Consumer Education and Research Centre and others v. Union of India and others**<sup>24</sup> that a worker's fundamental right under Article 21 read with Articles 39(e), 41, and 43 to ensure a meaningful and purposeful life for oneself and one's family is the right to health and medical care to preserve one's health and vitality, whether one is employed or not. The Honourable Court ruled that a worker's health and vitality shouldn't be sacrificed in order to fulfil his and his dependents' urgent need to earn a living in a field fraught with health risks. Article 42, which stipulates that the state must provide for the protection of fair and humane working conditions, is interpreted in combination with this.

In the case of **P. Shivaswamy v. State of Andhra Pradesh**,<sup>25</sup> it was decided that the financial support of Rs. 738/-per family given to the repatriated bonded laborers who were released from their bonds was insufficient and did not comply with Article 42, which required the state to provide fair and humane working conditions. Article 42 lists the state's responsibilities for providing Maternity Relief. The Employee's State Insurance Act of 1948 and the Maternity Benefit Act of 1961, for factories covered by the latter, accomplish the same thing.

Similarly, Article 43 requires that a living wage and respectable working conditions be provided in all areas of the economy. "Wage that allows a worker to give his family all-material goods, which are needed for their health and physical well-being, enough to enable him to qualify and discharge his duties as a citizen" is what is meant by "living wage." In addition, article 43-A, which was added by the 42nd Amendments in 1976, requires the state to take action to ensure that workers are included in the management of industrial facilities through appropriate legislation or other measures. The other principles enumerated in Part IV which have a bearing on Labour Laws are article 45 that talks about the obligation to provide free and compulsory education for the promotion of educational and economic interests of weaker sections and Article 47 that emphasizes the need for improvement in the level of the standard of living and of public health.

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<sup>24</sup> Consumer education and research centre and others v. Union of India and others, (1995) 3 SCC 42.

<sup>25</sup> P. Shivaswamy v. State of Andhra Pradesh, AIR 1988 SC 1863.

### **Current Status of Unorganized Workers:**

The status of unorganized workers in labor law varies depending on the country and its specific legal framework. However, globally, there's growing recognition of the need to protect and regulate the rights of unorganized workers, often through special provisions and social security measures. Many countries are working on extending labor laws to cover these workers, ensuring fair wages, safe working conditions, and access to benefits like healthcare and retirement plans.

### **Suggestions:**

For unorganized workers in India, there are several labor laws and regulations that provide protection and support. Here are some suggestions:

1. **The Unorganized Workers' Social Security Act:** This law aims to provide social security benefits to unorganized workers such as healthcare, maternity benefits, old age protection, and life and disability cover.
2. **Minimum Wages Act:** This act ensures that unorganized workers receive fair wages for their work. It establishes minimum wage rates for different categories of employment.
3. **Employees' State Insurance (ESI) Act:** Under this act, unorganized workers are entitled to health insurance and medical benefits for themselves and their dependents.
4. **Payment of Wages Act:** This act ensures that workers are paid accurately and on time for the work they do.
5. **Maternity Benefits Act:** Female unorganized workers are entitled to maternity benefits, including paid maternity leave and medical benefits during pregnancy and childbirth.
6. **Child Labor (Prohibition and Regulation) Act:** This act prohibits the employment of children in certain occupations and regulates the conditions of work for children in others.
7. **Equal Remuneration Act:** This act ensures that men and women receive equal pay for equal work.
8. **Industrial Disputes Act:** This act provides a mechanism for resolving disputes between

workers and employers, including matters related to wages, working conditions, and layoffs.

9. National Rural Employment Guarantee Act (NREGA): This act guarantees the right to employment for rural unskilled laborers, providing at least 100 days of wage employment in a financial year.

10. Right to Education Act (RTE): While not specifically a labor law, RTE ensures that children of unorganized workers have the right to free and compulsory education up to the age of 14 years.

It's important for unorganized workers to be aware of their rights under these laws and to advocate for their implementation to ensure fair treatment and improved working conditions. Additionally, joining or forming trade unions can help them collectively negotiate with employers for better wages and working conditions.

### **Conclusion:**

The Unorganized sector workers are caught in a vicious cycle of poverty and exploitation due to the weak implementation of laws. Wages paid by the owner, sub-contractor, agent and middlemen are in violation of wage regulations which causes extreme hardship to the marginalized and unorganised workers.

An unregulated work environment has resulted from a lack of jobs due to the ongoing COVID-19 epidemic, technology improvements, a lack of skills and training, home-based work, micro enterprises, and other causes. The lack of strict regulatory standards and ease of employment are the key reasons why many firms turn to this industry. As a result, the government must emphasize that informal economic activities require regulation for reasons of health, safety, and social security. This would improve the lives of unorganized workers in addition to creating a healthy work environment.

It is important to consider social security through the prism of legal rights rather than as the government's handout. Though there is certainly need for improvement, the Unorganized Workers' Social Security Act of 2008 is a good piece of legislation. Because the legislation is the only one that specifically addresses the welfare of workers in the unorganized sector, it is imperative that its shortcomings and ambiguities be resolved.

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