
AN ANALYSIS ON SOCIAL SECURITY COVERAGE AND PROTECTION GAPS FOR WORKERS IN THE UNORGANIZED SECTOR IN INDIA

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ABSTRACT

This paper delves into the intricate relationship between employment rights and social security, examining the prevailing conditions for workers of unorganised sectors within this framework. It explores the evolution of social security systems, their role in mitigating labor vulnerabilities, and the challenges in ensuring comprehensive coverage. The research investigates the impact of globalization, technological advancements, and demographic shifts on employment patterns and social security needs. Key focus areas include workers' rights to social protection, adequacy and accessibility of benefits, and the effectiveness of governance and regulatory frameworks. By analyzing existing policies and practices, the paper identifies gaps and inconsistencies in social security provision, highlighting the disproportionate impact on vulnerable groups such as informal workers, women, and migrants. It concludes by proposing recommendations to strengthen employment rights and enhance social security coverage, promoting social justice and economic well-being for all workers.

Keywords: Employment rights, social security, workers' protection, labor vulnerabilities.

INTRODUCTION

Unorganized workers play a crucial role in society, particularly as many socially and economically disadvantaged groups are engaged in informal economic activities. Recognizing their importance in the economy, the government has introduced various laws and schemes to support and protect these workers, aiming to improve their social and economic conditions. The term 'unorganised labour' refers to workers who are unable to come together to advocate for their shared interests due to various challenges such as temporary or irregular employment, lack of awareness or education, and the small, dispersed nature of their workplaces. Workers in the unorganized sector have difficulty in pursuing their collective interests because of things like unpredictable work schedules, unclear employer-employee relationships, ignorance, and illiteracy. Due to laws like the Employees State Insurance Act of 1948, the Employees Provident Funds Act of 1952, and the Factories Act of 1948, workers in the organized sector are entitled to essential social security benefits like healthcare, maternity leave, pensions, and life and medical insurance. These workers, however, are typically underpaid and do not have access to these benefits.

While the Constitution of India has not yet recognized social security as a fundamental right, it does mandate that the State work towards the welfare of its people by ensuring and safeguarding a social order where social, economic, and political justice influence all national institutions. Article 41 directs the State to make provisions, within its economic capacity, to secure the right to employment, education, and public assistance in cases of unemployment, old age, sickness, and disability. Article 42 requires the State to ensure just and humane working conditions and provide maternity benefits. Article 47 tasks the State with improving nutrition, raising living standards, and enhancing public health as key duties. These obligations outlined in the Constitution form the basis of social security, which provides protection against risks that individuals of limited means cannot manage on their own, even with collective efforts.¹

RESEARCH METHODOLOGY:

This research primarily employs the doctrinal method, drawing upon the latest available data from official sources. Data collection involved a thorough examination of primary and secondary literature. Primary sources, including statutes, guidelines, legal documents, and

¹ V.V. Giri, *Labour problems in India*, 3rd Revised edition, Asia Publishing House, New Delhi, 1973 p. 247

court judgments, were given significant attention. Furthermore, a range of secondary sources, such as books, articles, newspapers, official reports, and reports from non-governmental organizations, were utilized to enrich the research.

RESEARCH OBJECTIVES:

1. To assess the Current State of Social Security Coverage.
2. To examine the gaps and limitations in the current social security frameworks that affect workers in the unorganised sector.
3. To determine the specific needs and vulnerabilities of these workers that are not adequately addressed by existing programs.
4. To investigate how the lack of adequate social security impacts the livelihood, health, and overall well-being of unorganised sector workers.
5. To assess the socio-economic consequences of these protection gaps on workers and their families
6. To suggest policy reforms and strategic interventions that could bridge the identified gaps and improve overall social security outcomes.

ILO ON SOCIAL SECURITY:

The International Labour Organization (ILO), established in 1919, is the only tripartite U.N. agency that brings together governments, employers, and workers from its 187 member states.² Its mission is to set labour standards, create policies, and design programs that promote decent work for all men and women³. The ILO adopts Conventions and Protocols that are binding on member states, and it also issues Recommendations to promote labour welfare.⁴ The ILO also convenes the International Labour Conference, often referred to as the International Parliament of Labour.⁵ This conference is held annually and brings together government, worker, and employer delegates from ILO member states.⁶ Its main objectives are to set and adopt

² International Labour Organization (ILO), About the ILO, <https://www.ilo.org/global/about-the-ilo/lang--en/index.htm>

³ ILO, Mission and Objectives, <https://www.ilo.org/global/about-the-ilo/mission-and-objectives/lang--en/index.htm>

⁴ ILO, International Labour Standards, <https://www.ilo.org/global/standards/lang--en/index.htm>

⁵ ILO, International Labour Conference, <https://www.ilo.org/global/meetings-and-events/international-labour-conference/lang--en/index.htm>

⁶ Id.

international labour standards and provide a platform for discussing important social and labour issues.

The concept of social security has developed gradually over time. One of its earliest references was in the Beveridge Committee Report of 1942, where it was defined as "freedom from want," focusing on employment maintenance, children's allowances, and comprehensive healthcare services (Majumdar & Borbora, 2013)⁷. Later, in 1952, the International Labour Organisation (ILO) introduced a more comprehensive understanding of social security as measures to protect individuals from social and economic hardships. These included safeguards against sudden income loss due to illness, maternity, work-related injury, unemployment, disability, old age, death, and the provision of medical care (ILO, 1952). The ILO's Social Security (Minimum Standards) Convention, 1952 (No. 102)⁸ identifies nine life contingencies that all members of society should be protected from. These contingencies include:

- Health care
- Sickness
- Maternity
- Unemployment
- Disability
- Death of the breadwinner
- Employment injury
- Old age
- Maintenance of children

Social security, as defined by the ILO, encompasses protective measures to shield individuals from economic distress caused by factors such as sickness, unemployment, maternity, old age, disability, or work-related injuries. For workers in the organized sector, such protections are often mandated and enforced by legislation, ensuring access to healthcare, pensions, unemployment benefits, and other forms of social safety nets. However, the situation is vastly different for the unorganized sector, where millions of workers remain outside the purview of such formal arrangements. The unorganized sector typically includes workers in small, informal enterprises, agricultural labourers, street vendors, domestic workers, and others

⁷ A.K. Majumdar & H. Borbora, *Social Security in India: An Overview 1* (2013).

⁸ Int'l Labour Org., *Social Security (Minimum Standards) Convention, 1952 (No. 102)*, arts. 2-10,

engaged in casual or temporary employment. These workers often face precarious working conditions, low wages, and little or no access to social security benefits. The ILO has long recognized the need to extend social protection to this vulnerable group and has advocated for policies and frameworks that address their specific needs.⁹

In many countries, the informal sector represents a large proportion of the workforce. In India, for example, around 90% of workers are employed in the unorganized sector, according to estimates from the National Commission for Enterprises in the Unorganised Sector (NCEUS).¹⁰ Despite their critical role in the economy, these workers often remain excluded from social security schemes.¹¹ Recognizing this gap, the ILO has worked closely with governments and social partners to design programs that extend social protection to informal workers.¹² One of the key areas of ILO's focus is the implementation of social protection floors, which are nationally defined sets of basic social security guarantees that ensure access to essential healthcare and income security.¹³ For unorganized sector workers, social protection floors can provide a foundation for greater economic security, helping to reduce poverty and vulnerability. The ILO's Recommendation No. 202 on Social Protection Floors, adopted in 2012, calls on countries to establish these floors as a means to provide universal access to essential services and basic income guarantees, particularly for workers in informal and precarious employment¹⁴.

The ILO also supports efforts to formalize informal work, as formalization is one of the key ways to ensure that workers in the unorganized sector gain access to social security benefits. This involves developing legal frameworks, strengthening labour inspections, and promoting inclusive social dialogue to ensure that unorganized workers are represented in policymaking processes. The ILO's efforts to promote social security for unorganized sector workers are rooted in its broader mission to achieve social justice and decent work for all.¹⁵ By advocating for the extension of social protection to informal workers, the ILO continues to play a critical

⁹ International Labour Organization (ILO), Social Protection Floors Recommendation No. 202, U.N. Doc. No. ILC.102/III/1 (2012).

¹⁰ National Commission for Enterprises in the Unorganised Sector (NCEUS), Report on Conditions of Work and Promotion of Livelihoods in the Unorganised Sector (2007).

¹¹ International Labour Organization (ILO), World Employment and Social Outlook: The Changing Nature of Jobs (2015).

¹² ILO, Social Protection Floors Recommendation No. 202, U.N. Doc. No. ILC.102/III/1 (2012).

¹³ ILO, World Social Protection Report 2020-22: Social Protection at the Crossroads – in Pursuit of a Better Future, International Labour Office (2021).

¹⁴ Unorganized Labour (2004-05), Annual Report, Government of India.

¹⁵ International Labour Organization (ILO), Mission and Objectives, <https://www.ilo.org/global/about-the-ilo/mission-and-objectives/lang--en/index.htm>.

role in addressing the social and economic inequalities that affect millions of workers worldwide.¹⁶ Through its conventions, recommendations, and technical support, the ILO seeks to create a world where social security is a reality for all, regardless of their employment status.¹⁷

UNORGANIZED SECTOR AND SOCIAL SECURITY:

The term "unorganized sector" lacks a precise scientific definition and has not been formally defined.¹⁸ Instead, it is commonly used to describe the availability—or lack thereof—of certain benefits or rights for workers outside the formal organized sector.¹⁹ This sector is sometimes also referred to as the informal sector.²⁰ Although there has been no comprehensive definition, the First National Labour Commission attempted to describe it for their report.²¹ According to the Commission, unorganized workers are those who struggle to organize and pursue common goals due to various constraints, such as:

- The temporary or irregular nature of their employment.
- Lack of awareness and education.
- Small-scale businesses with minimal capital investment.
- The dispersed location of their workplaces.
- The dominant power of employers, who may operate individually or in collusion.

National Commission also gives some categories of workers, which can be categorised as unorganised workers, which are the following:²²

- Contract-based worker and it also includes workers engaged in the construction work.
- Daily –based worker in civil construction works.
- Informal (casual) labour.

¹⁶ ILO, Social Protection Floors Recommendation No. 202, U.N. Doc. No. ILC.102/III/1 (2012).

¹⁷ ILO, World Social Protection Report 2020-22: Social Protection at the Crossroads – in Pursuit of a Better Future, International Labour Office (2021).

¹⁸ Social Protection Floors Recommendation No. 202, International Labour Organization (2012).

¹⁹ ILO, World Employment and Social Outlook: The Changing Nature of Jobs (2015).

²⁰ ILO, Recommendation No. 204: Transition from the Informal to the Formal Economy, U.N. Doc. No. ILC.104/III/1 (2015).

²¹ First National Labour Commission Report, Ministry of Labour and Employment, Government of India (2002), <https://labour.gov.in/sites/default/files/First%20National%20Labour%20Commission%20Report.pdf>.

²² First National Labour Commission Report, Ministry of Labour and Employment, Government of India (2002), <https://labour.gov.in/sites/default/files/First%20National%20Labour%20Commission%20Report.pdf>.

- Labour engaged in small industry.
- Handloom/ power loom workers.
- Beedi and cigar workers.
- Employed in shops and commercial establishments.
- Sweepers and scavengers.
- Workers in tea plantations.
- Labourers engaged in agriculture works and farming works
- Tribal labour
- Other unprotected labour.

The Social Security for Unorganised Sector Workers Act, 2008,²³ is a landmark piece of legislation in India designed to address the urgent need for social security among workers in the unorganized sector. This sector includes a wide range of informal jobs, such as those in agriculture, construction, domestic work, and street vending. Workers in these roles often face unstable and challenging working conditions, and until this Act, they typically lacked access to basic social security benefits like health insurance, pensions, and maternity leave. This Act represents a major advancement in extending social welfare protections to millions of workers who previously had no safety net. It sets up a framework for implementing social security schemes specifically tailored to the unique needs of unorganized sector workers. For example, the Act provides for healthcare, life and disability insurance, old-age pensions, and maternity benefits.

A notable feature of the Act is the establishment of the National Social Security Fund.²⁴ This fund is crucial for supporting the various social security schemes and ensuring they remain financially viable over time. Another important aspect is the creation of a comprehensive database of unorganised sector workers, which helps in effectively managing and monitoring the delivery of social security benefits.²⁵ Furthermore, the Act includes provisions for a

²³ The Social Security for Unorganised Sector Workers Act, 2008, No. 33 of 2008, Government of India.

²⁴ The Social Security for Unorganised Sector Workers Act, 2008, No. 33 of 2008, Government of India, § 12.

²⁵ *Id.* § 13.

grievance redressal mechanism, ensuring that workers have a way to voice their concerns and resolve issues related to their entitlements and rights.²⁶

Overall, the Social Security for Unorganised Sector Workers Act, 2008, is a significant step forward in improving the lives of workers in the informal economy. It aims to provide a safety net for millions, offering them access to essential benefits and better working conditions, and marking a crucial move towards more inclusive social protection.²⁷

IMPORTANCE OF UNORGANISED SECTOR IN INDIAN ECONOMY:

The Indian economy is marked by a significant prevalence of informal or unorganised labor.²⁸ Workers in the formal or organized sector make up only about 7 percent of the nation's total workforce. The remaining 93 percent includes subsistence farmers, agricultural laborers, fisherfolk, dairy workers, and those engaged in traditional manufacturing such as handloom industries, all of whom are categorized under the unorganised sector. The Ministry of Labour has classified the unorganised labor force into four distinct categories based on occupation, nature of employment, especially distressed categories, and service categories.²⁹ In terms of occupation, the unorganised sector includes small and marginal farmers, landless agricultural laborers, sharecroppers, fishermen, and those involved in animal husbandry.³⁰ It also encompasses workers engaged in activities such as beedi rolling, labeling and packing, building and construction, leather work, weaving, and artisan crafts. Additionally, it covers workers in industries like salt production, brick kilns, stone quarries, saw mills, and oil mills. Regarding the nature of employment, the sector includes attached agricultural laborers, bonded laborers, migrant workers, as well as contract and casual laborers.

The especially distressed category comprises toddy tappers, scavengers, carriers of head loads, drivers of animal-drawn vehicles, and loaders and unloaders. The service category includes midwives, domestic workers, barbers, vegetable and fruit vendors, newspaper vendors, and

²⁶ Id. § 17.

²⁷ Id. § 18.

²⁸ **National Commission for Enterprises in the Unorganised Sector (NCEUS), Report on Conditions of Work and Promotion of Livelihoods in the Unorganised Sector (2007)**, https://nceus.gov.in/condition_of_work_report.htm.

²⁹ Ministry of Labour, **Unorganised Sector Workers: Classification of Labour Force**, Government of India (2008), <https://labour.gov.in/worker-classification>

³⁰ **National Commission for Enterprises in the Unorganised Sector (NCEUS), Report on Conditions of Work and Promotion of Livelihoods in the Unorganised Sector (2007)**, https://nceus.gov.in/condition_of_work_report.htm.

similar occupations.³¹ Beyond these categories, the unorganised labor force also includes a significant number of individuals such as cobblers, hamals, handicraft artisans, handloom weavers, lady tailors, self-employed individuals with physical disabilities, rickshaw pullers, auto drivers, sericulture workers, carpenters, leather and tannery workers, powerloom workers, and the urban poor.³²

According to recent government reports, agricultural workers remain the largest segment within the unorganised sector.³³ As per the Labour Bureau's Survey on Employment and Unemployment in India for 2017-18, approximately 46.8% of the total workforce is employed in agriculture.³⁴ Many small and marginal farmers, due to their limited land holdings and low productivity, also work as agricultural laborers on others' land. Additionally, a significant portion of the workforce is involved in activities such as livestock rearing, forestry, fishery, and other allied fields. Construction workers represent the second largest group in the unorganised sector. The National Sample Survey Office (NSSO) report for 2017-18 indicates that about 7% of the workforce is engaged in building and construction activities.³⁵ This sector spans a wide range of activities including civil, mechanical, electrical, and public health construction. It includes numerous multinational, national, and local companies, as well as a large number of self-employed individuals involved in related tasks such as whitewashing, painting, plumbing, and fixing mechanical or electrical fixtures.

Home-based workers, who produce goods or services for employers or contractors from their own homes, are another significant category. Although there is no comprehensive official data specific to home-based workers, the National Statistical Office (NSO) report from 2019 includes them under household industries.³⁶ These workers are primarily engaged in activities such as beedi rolling, garment making, agarbati (incense stick) production, gem cutting, and

³¹ Ministry of Labour, **Unorganised Sector Workers: Classification of Labour Force**, Government of India (2008).

³² **National Commission for Enterprises in the Unorganised Sector (NCEUS), Report on Conditions of Work and Promotion of Livelihoods in the Unorganised Sector** (2007)

³³ Ministry of Labour, **Unorganised Sector Workers: Classification of Labour Force**, Government of India (2008).

³⁴ **Labour Bureau, Survey on Employment and Unemployment in India, 2017-18**, Ministry of Labour and Employment, Government of India

³⁵ **National Sample Survey Office (NSSO), Report No. 577: Employment and Unemployment Situation in India, 2017-18**, Ministry of Statistics and Programme Implementation, Government of India,

³⁶ **National Statistical Office (NSO), 68th Round of National Sample Survey: Household Industry Report, 2019**, Ministry of Statistics and Programme Implementation, Government of India,

preparing food items like papads and pickles. In the beedi rolling industry alone, which is often family-run, approximately 45 lakh workers are employed, with around 90% working from home.

The unorganised sector is characterized by several key features:

1. **Large Workforce:** The unorganised labour force is extensive and widespread across India, making their presence ubiquitous.
2. **Seasonal Employment:** Workers in this sector frequently experience fluctuating employment patterns, leading to instability and a lack of durable job opportunities. This often results in disguised unemployment, where workers may appear employed but are not consistently or substantially engaged.
3. **Scattered Workplaces:** The work environment is dispersed, with workers performing similar tasks across different locations rather than in concentrated areas.
4. **Lack of Formal Employment Relationships:** Many unorganised workers, such as small and marginal farmers, sharecroppers, and agricultural labourers, do not have formal employer-employee relationships. They often work under conditions that are marginally beneficial to one group but are essentially uniform across the sector.
5. **Social Stratification:** In rural areas, the unorganised workforce is heavily influenced by caste and community factors. While these issues are less pronounced in urban areas, they are not entirely absent, as many urban unorganised workers are migrants from rural regions.³⁷
6. **Exploitation and Poor Conditions:** Unorganised workers face significant exploitation, receiving lower wages and poorer working conditions compared to those in the formal sector, even for similar jobs. The quality of work and terms of employment are generally inferior.³⁸
7. **Outdated Practices:** The sector often relies on primitive production techniques and outdated social practices, which hinder the adoption of advanced technologies and better working conditions. High levels of ignorance and limited external exposure also contribute to this stagnation.³⁹

³⁷ Ministry of Labour, Government of India, Unorganised Sector Workers: Classification of Labour Force.

³⁸ National Sample Survey Office (NSSO), Report No. 577: Employment and Unemployment Situation in India, 2017-18, Ministry of Statistics and Programme Implementation, Government of India

³⁹ Id.

8. **Neglect by Trade Unions:** Unorganised workers generally receive little support from trade unions, which further exacerbates their challenges.⁴⁰

AS A MARGINALIZED GROUP, UNORGANISED WORKERS FACE A RANGE OF SIGNIFICANT CHALLENGES:

Low Wages: Wages are a primary concern for workers, but many in the unorganised sector receive minimal or inadequate compensation. Despite the Minimum Wages Act⁴¹ setting out required wage levels, many workers do not receive the statutory minimum. The Supreme Court of India has ruled that paying workers below the legal minimum wage constitutes forced labor and violates Article 23 of the Constitution, even if economic pressure leads individuals to accept lower wages.

Lack of Awareness about Work Hazards and Occupational Safety: Working conditions in the unorganised sector often have detrimental effects on workers' health. Many workers, particularly those working from home, suffer from various health issues due to inadequate safety measures and a lack of awareness about occupational hazards.

Health Issues: Workers in the unorganised sector often suffer from respiratory problems due to inhaling tobacco dust and physical discomfort from maintaining awkward postures throughout their work. Additionally, exposure to unguarded machinery and hazardous substances like coal dust, lime, and other toxic materials can lead to serious health conditions or even fatalities. The lack of knowledge about occupational health and safety exacerbates these issues.

Poor Living Conditions: Many workers reside in unsanitary and overcrowded conditions, dealing with issues such as sewerage leaks, overflowing drainage systems, and frequent flooding. Living conditions are often comparable to those found in slum areas, with inadequate facilities for washing, urination, and sanitation at their workplaces.⁴²

Extended Working Hours: Long working hours beyond legal and regulatory limits are common in the unorganised sector. In agriculture, there are no fixed working hours due to the

⁴⁰ National Commission for Enterprises in the Unorganised Sector (NCEUS), Report on Conditions of Work and Promotion of Livelihoods in the Unorganised Sector (2007).

⁴¹ **Minimum Wages Act, 1948**, No. 11 of 1948, Acts of Parliament.

⁴² **Labour Bureau, Ministry of Labour and Employment, Government of India, Report on Employment and Unemployment in India 2017-18**

absence of regulations. Similarly, in non-agricultural sectors like fireworks, matchmaking, and power looms, workers often start their day as early as 6:00 a.m. and continue until evening. In the handloom sector, wages are based on 12-15 hours of work daily. Illiteracy among many workers leads to exploitation, as employers impose excessive working hours. Social isolation of migrant workers, high unemployment, illiteracy, and lack of awareness further hinder their ability to organise and advocate for better conditions.⁴³

Lack of Awareness About Trade Unions: A significant number of workers are unaware of the existence or functions of trade unions. Trade unions, established under the Trade Unions Act of 1926,⁴⁴ are designed to address disputes between employers and employees. However, many workers lack knowledge about these unions, which hampers their ability to seek assistance and advocate for their rights effectively.

Uncertain Employment: Their work is often available only for a few months each year, leaving them unemployed and struggling with starvation during the remaining months.

Seasonal Work: Many workers are engaged only seasonally, typically working for just 3-4 months each year. The Mahatma Gandhi National Rural Employment Guarantee Act, 2005 aims to provide some employment security by guaranteeing at least 100 days of work annually in the most backward districts.⁴⁵

Gender and Child Labor Issues: Women and children are often underpaid, receiving only a fraction of the wages of their male counterparts despite working the same hours. Children are frequently employed in low-wage, hazardous jobs such as in hotels, dhabas, and various industries, including carpet weaving and fireworks production.⁴⁶

Workplace Harassment: Women in the unorganised sector face significant issues with sexual harassment. Despite legal protections established in 2013, many women continue to experience physical and psychological abuse at their workplaces.⁴⁷

⁴³ National Sample Survey Office (NSSO), Report No. 577: Employment and Unemployment Situation in India, 2017-18, Ministry of Statistics and Programme Implementation, Government of India,

⁴⁴ Trade Unions Act, 1926, No. 16 of 1926, Acts of Parliament.

⁴⁵ Mahatma Gandhi National Rural Employment Guarantee Act, 2005, No. 42 of 2005, Acts of Parliament.

⁴⁶ National Commission for Protection of Child Rights (NCPCR), Annual Report 2020-2021, Ministry of Women and Child Development, Government of India.

⁴⁷ Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013, No. 14 of 2013, Acts of Parliament.

Bonded Labour: Certain vulnerable groups, particularly in sectors like construction and quarrying, endure bonded labor systems where they are trapped in debt relationships that bind them to their employers across generations.⁴⁸

Insecurity from Natural Disasters: Natural disasters such as floods, droughts, and earthquakes further exacerbate the precarious situation of unorganised workers, not only destroying their work but also impacting their limited household assets.⁴⁹

INITIATIVES TAKEN BY THE INDIAN GOVERNMENT:

The details of the schemes in as under:

1. Indira Gandhi National Old Age Pension Scheme. (Ministry of Rural Development)
2. National Family Benefit Scheme. (Ministry of Rural Development)
3. Janani Suraksha Yojana. (Ministry of Health and Family Welfare)
4. Handloom Weavers' Comprehensive Welfare Scheme.(Ministry of Textiles)
5. Handicraft Artisans' Comprehensive Welfare Scheme. (Ministry of Textiles)
6. Pension to Master Craft Persons. (Ministry of Textiles)
7. National Scheme for Welfare of Fishermen and Training and Extension.(Department of Animal Husbandry, Dairying & Fisheries)
8. Janshree Bima Yojana and Aam Admi Bima Yojana. (Department of Financial Services).
9. Rashtriya Swasthya Bima Yojana. (Ministry of Labour and Employment)

ROLE OF INDIAN JUDICIARY FOR THE PROTECTION OF THE RIGHTS OF THE UNORGANISED WORKER:

The Indian judiciary plays a crucial role in safeguarding the rights of unorganised workers, particularly when legislative protections fail to be effectively implemented. The judiciary has been instrumental in advancing modern legal principles and ensuring that the interests of the most vulnerable segments of society are protected. Through various landmark decisions, the

⁴⁸ Bonded Labour System (Abolition) Act, 1976, No. 19 of 1976, Acts of Parliament.

⁴⁹ National Disaster Management Authority (NDMA), Guidelines on Disaster Management and its Impact on Vulnerable Groups, Government of India.

courts have extended the benefits of labour welfare legislation, including the Employees Compensation Act,⁵⁰ Payment of Gratuity Act,⁵¹ Employees State Insurance Act,⁵² and Employees Provident Fund,⁵³ to those in the unorganised sector.

The judiciary has a critical responsibility to protect the rights of weaker sections, and this is reflected in several important rulings. For instance, In *Rural Litigation and Entitlement Kendra, Dehradun v. Uttar Pradesh*⁵⁴, the Supreme Court held that the right to life under Article 21 of the Indian Constitution encompasses the right to livelihood. Similarly, in *People Union for Democratic Rights v. Union of India*⁵⁵, the court recognized that forced begging constitutes a violation of the right to live with dignity and that failing to pay minimum wages constitutes a breach of Article 23, which prohibits forced labour.

In *Sanjit Roy v. State of Rajasthan*⁵⁶, the court ruled that paying less than the minimum wage for famine relief work violates Article 23. The state is not allowed to exploit workers' desperation during emergencies like droughts or famines by underpaying them. Additionally, in *Deena v. Union of India*⁵⁷, the court declared that insufficient wages for prisoner labor constitutes forced labour, infringing upon Article 23. It affirmed that prisoners are entitled to reasonable compensation for their work.

The case of *Bandhua Mukti Morcha v. Union of India*⁵⁸ established that public interest litigation alleging bonded labour must be taken seriously by the government. The government is obligated to investigate such claims and work towards eliminating bonded labour practices to protect workers' rights, as mandated by Article 23 of the Constitution.

Finally, in *Neeraja Chaudhary v. State of Madhya Pradesh*⁵⁹, Justice Bhagwati emphasized that merely identifying bonded labour is insufficient; the government must also ensure the rehabilitation of such workers. Article 21 requires that efforts be made to rehabilitate bonded labourers to prevent their descent into poverty and despair, aligning with the Directive

⁵⁰ Employees Compensation Act, 1923, No. 8 of 1923, Acts of Parliament.

⁵¹ Payment of Gratuity Act, 1972, No. 39 of 1972, Acts of Parliament.

⁵² Employees State Insurance Act, 1948, No. 34 of 1948, Acts of Parliament.

⁵³ Employees Provident Funds and Miscellaneous Provisions Act, 1952, No. 19 of 1952, Acts of Parliament.

⁵⁴ (1985) 3 SCC 431.

⁵⁵ (1982) 3 SCC 235.

⁵⁶ (1983) 4 SCC 435

⁵⁷ WRIT PETITION (CRIMINAL) NO. 89 OF 2015

⁵⁸ (1984) 3 SCC 161

⁵⁹ (1984) 4 SCC 25

Principles of State Policy that guide the government in upholding basic human dignity.

In the case of *Daily Rated Casual Labour V. Union of India*⁶⁰, it was held that whenever the employees are classified into the casual and regular employees. Leads to the infringement of Article 14 and Article 16 of the Constitution. It is also against the spirit of Article 7 of the International Covenant on Economic, Social And Cultural Rights, 1966. When the labourers are not paid minimum wages as prescribed by the Minimum Wages Act, then it amounts to exploitation of labour. The court also stated that the Government should be the model employer and not take advantage of its dominant position

THE CODE ON SOCIAL SECURITY 2020:

The Code on Social Security, proposed by Parliament in September 2020, defines social security as "the protective measures provided to employees, unorganised workers, gig workers, and platform workers to ensure access to healthcare and income security. This includes protection in cases of old age, unemployment, illness, disability, work-related injuries, maternity, or the loss of a primary breadwinner. These protections are established through rights granted under this Code and schemes created pursuant to it."⁶¹ The Code consolidates and streamlines ten existing legislations related to social security.

The Code on Social Security, 2020, mandates both Union and state governments to develop welfare schemes aimed at providing social security for gig economy workers, such as online platform-based taxi drivers and delivery personnel. This Code requires the Union government to establish social security schemes including the Employees' Provident Fund Scheme, the Employees' Pension Scheme, and other schemes tailored to benefit unorganised workers.⁶²

It also emphasizes the need to address the welfare of gig economy workers. The Code sets varying eligibility thresholds for different schemes based on the number of employees and income levels within establishments. For unorganised, gig, and platform workers, the Union government is tasked with creating schemes covering areas like life and disability insurance, health and maternity benefits, old-age protection, and education. Concurrently, state governments are responsible for schemes related to provident funds, employment injury benefits, housing, and educational support for children.⁶³ Furthermore, the Code requires the

⁶⁰ 1988 SCR (1) 598

⁶¹ Code on Social Security, 2020, No. 36 of 2020, Parliament of India, § 2(1),

⁶² Id. at § 16.

⁶³ Id. at § 21.

establishment of national and state-level Social Security Boards, similar to the previous Unorganised Workers Social Security Act (UWSSA), to propose and oversee these schemes.⁶⁴ It also introduces Inspector-cum-Facilitators and a quasi-judicial appellate authority to handle disputes, following the approach taken by the Code on Wages.⁶⁵

RECOMMENDATIONS:

Food security: The right to food security comes as an important aspect of social security systems. Drought, flood, famine, and other such natural disasters tend to affect most devastatingly the rural workers and the weaker sections of the society. The DPAP itself runs short of addressing the issue by providing employment mainly, through rural works programme. Rather, the objective has always been the provision of security for food, whatsoever may be the situation weather bad or normal. The Public Distribution System (PDS) implemented in India serves as an experimental effort in this context.⁶⁶ Through the PDS, the aim of the government is to shield the poor sections of the population from fluctuations in the prices of food staples by providing cheap foodgrains to them. It is worth mentioning that the PDS was launched initially for the urban population strategy but this changed after 1970s rural region also came under its umbrella.

Nutritional security: It is not just 'food', but the nutrition is very important. The weaker sections of the community and the unorganised workers are not conscious about the nutrient intake. Particularly, the children and women, pregnant women and aged do not receive adequate nutrient requirements. Lack of nutrient leads to poor growth, poor health and sickness, poor performance, and shorter life. It is said that some states, local bodies, and NGOs have initiated some initiatives towards creating awareness regarding health and nutrition and to ensure nutrient intake at adequate levels for targeted groups, particularly children and women.⁶⁷

Health Security: Health security can be defined as the low level of exposure to risk, access to services related to health care as well as the ability to pay for medicines and medical care. Health security should be provided to every citizen. Various studies, which analysed the health condition and health care needs of rural conditions outlined that poor and inadequate rural health infrastructures, increasing health care needs as well as health care expenditure. It is a

⁶⁴ Id. at § 44.

⁶⁵ Id. at § 63.

⁶⁶ Public Distribution System (PDS), Ministry of Consumer Affairs, Food and Public Distribution.

⁶⁷ National Nutrition Policy, Ministry of Health and Family Welfare, Government of India.

question of feasibility, viability and availability of inputs and resources to establish hospitals with required infrastructure in all the villages. However, it is a matter of concern to consider the needs of the 70 per cent of the people living in villages. The poor do not treat for common illness and sometimes to major diseases that are unidentified by them, causing higher level of untreated morbidity. Similarly, the cost and burden of treatments are ever-increasing and lead to difficulties for poor and weaker sections of the community.⁶⁸

Housing Security: Housing is one of the basic needs of every individual and family. The housing needs of the unorganised workers and the poor are ever increasing in the context of decay of joint family system, migration and urbanisation. In urban areas, though housing is a major issue, the organised workers are supported by providing House Rent.

Allowances HRA or by providing houses through Housing Boards and by providing accommodation in the Quarters. Many financing companies and commercial banks also provide loans to organised workers to build or purchase houses. These facilities are normally not available and could not be enjoyed by the unorganised workers. More importantly, the housing conditions of the poor in the rural areas are 'really poor' and there is scope for reconditioning, modification, and reconstruction in many of them. The rural housing programme implemented in Tamilnadu namely Samathuvapuram and construction of houses under Slum Clearance Board stand as examples for steps towards housing security.⁶⁹

Employment security: The seasonal nature of the employment opportunities affects the unorganised workers badly. Under-employment and unemployment persists largely among unorganised sectors. There are numerous schemes initiated for gainful employment in rural India such as Swarnajayanti Gram Swaeozgar Yojna (SGSY), Pradhan Mantri Gran Sadak Yojana (PMGSY), Sampoorna Gramin Rozgar Yojana (SGRY), National Food For Work Programme(NFFWP), Indra Awass Yojna (JAY), Integrated Wastelands, Drought Prone Areas Programme and Desert Development Programme. Further, the Government has recently enacted the National Rural Employment Guarantee Act to provide 100 days guaranteed employment to rural households. Though these initiatives have contributed in reducing the rural unemployment problem, the problem of employment insecurity needs to be addressed in a

⁶⁸ Report on Health Infrastructure in Rural India, National Health Mission, Ministry of Health and Family Welfare, Government of India.

⁶⁹ Tamil Nadu Rural Housing Scheme - Samathuvapuram, Tamil Nadu Slum Clearance Board.

wider context and solved at.⁷⁰

Income Security: Even though there is a positive correlation between income and number of days worked, this is especially true for organized laborers. On the other hand, in the case of unorganized workers, their earnings are impacted by job nature; type of goods produced; extent of value addition; market prices; competition among others. Crop insurance scheme exists to provide some form of protection against loss due to adverse weather conditions. Nevertheless, for various self-owned businesses and other occupations no security exists to enable the people who engage in them to get returns on their input.⁷¹

CONCLUSION:

The discussion explores the nature and expansion of unorganised workers, the progress in social security initiatives for these workers, and the growing need for enhanced social security measures. Analysis of secondary data from the Census and the National Sample Survey Organisation indicates that unorganised workers make up approximately 93 percent of the total workforce, with this proportion steadily increasing over time. This trend is expected to continue due to globalization. Historically, India had a robust tradition of social security and assistance systems aimed at protecting its most vulnerable populations. Traditional practices included self-sufficient village communities, common property resources, joint family systems, and charitable endowments, all of which provided essential support to the needy and poor. However, these informal social security measures have gradually diminished. Post-independence, the State focused more on the needs of the industrial and organized workforce, often neglecting the social security needs of rural and unorganised laborers until recent years. There is broad agreement among social policy experts, planners, and administrators that everyone in society should have access to a basic level of social protection. Social security is crucial for human development and social progress. Its primary goal is to ensure that individuals and families can maintain their standard of living and quality of life, even in the face of social or economic challenges.

Both the Indian government and civil society are exploring various strategies and mechanisms to expand social security programs for all citizens. These efforts require careful examination in terms of their feasibility, affordability, reach, sustainability, and effectiveness. While some

⁷⁰ National Rural Employment Guarantee Act (NREGA), Ministry of Rural Development, Government of India.

⁷¹ Crop Insurance Scheme in India, Ministry of Agriculture & Farmers Welfare, Government of India.

of these initiatives need further refinement and improved enforcement, they have sparked valuable discussions both nationally and internationally. A positive development is the government's focus on creating and implementing rights-based social security systems. These systems aim to enhance governance structures and encourage greater participation from all stakeholders, including the beneficiaries themselves.

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