



PROBLEM FACED BY LABOURS IN UNORGANIZED SECTOR: A COMPARATIVE STUDY WITH ORGANIZED WORKERS

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Abstract

India comprises 135.26 crore people. According to National Sample Survey Organization (NSSO) IN 2009-10, the total employment in the country was of 46.5 crore comprising around 2.8 crore in organized sector and the remaining 43.7 crore workers in the unorganized sector. This unorganized sector faces many problems and challenges in regulation with employer, over time, exploitation, casual work culture and many more. The unorganized labour is engaged in casual, seasonal and scattered employment which are not unionized and because of their scattered employment nature, they do not take advantage of any labour law. It is not that there are no labour laws for the security and welfare of unorganized sector. These laws made for both organized and unorganized labours, but the conditions for the applicability of the labour laws are like that cannot be fulfilled by the unorganized sector.

Unorganized workers are deprived from the social security benefits such as- Pensions, Gratuity, Workmen's compensation, Employee State Insurance, deprived from the benefits of the acts of regarding of Regulation of Employment such as- The Factories Act, 1948, The Industrial Disputes Act, 1947, The Contract Workman Act, 1970, The Maternity Benefits Acts, 1961 and they are also deprived from the benefits of laws which give them regularity of wages such as- The Payment of Wages Act, 1936 and The Minimum Wages act, 1948.

The fundamental principle of labour legislation is to guarantee the weaker party in the labour market protection and basic rights in order to be in a fair position when negotiating salary and working conditions. But when it comes to unorganized sector, this fundamental principle of labour legislation also becomes a bit tarnished.

However, the Indian government is constantly making efforts for the welfare and protection of unorganized labours and in these efforts an important law is 'Social Security Act, 2008' to achieve its objectives, there is there is a provision for the constitution of the Board at the State level and also the funding of State Government Schemes for record keeping by district administration and for the setup of the workers facilitation centre.

Unorganized sector plays a crucial role in Indian economy. For the effective implementation of labour legislation for the unorganized sectors, it is essential to the study the existing employment relations, after analyzing the existing working conditions of unorganized labours in India should be given special attention. This paper will discuss about the problems and challenges faced by unorganized labours and their conditions in the comparison of organized labours. In this paper labour laws are discussed, which benefits only the organized sector can take. Finally, some discussion has been made about some special legislations which also implement to the unorganized sector.

Keywords: Labour, Organized, Unorganized, Employment, Security, Welfare.

Introduction

The term labour denotes any physical or mental work done with the object of obtaining consideration is labour. Playing a game is also physical as well as mental work, but it is for the enjoyment, so it cannot come within the purview of labour. According to Marshall, "any exertion of mind or body under gone to partly or wholly with a view to some good other than the pleasure derived directly from the work is called labour".

It includes not only labour that results in the permanent form, but also that renders services which perish in the act.

Here labour word is used for the worker who is engaged in any production process. This paper is brief introduction of problems and challenges faced by unorganized worker and comparison of them with organized workers.

What is unorganized worker: the term unorganized worker has been defined under the Unorganized Workers' Social Security Act, 2008, as a home-based worker, self-employed worker or a wage worker in the unorganized sector and includes a worker in the organized sector who is not covered by any of the Acts mentioned in Schedule-II of Act i.e. The Employee's compensation act, 1923 (3 of 1923), The Industrial dispute act, 1947, The Employee's state insurance act, 1948, The Employee's provident funds And Miscellaneous Provision Act, 1952, The Maternity Benefit Act, 1961, and The Payment of Gratuity Act, 1972.



The unorganized sector, comprises, informal workforce with low working status and poor laws and regulations enforced by the government. International Labour Organization introduced World Employment Programme Mission in Kenya, Columbia, Srilanka and Philippines to encourage employment in informal sectors to bring economic growth. This initiation has brought attention of the world towards unorganized sector. Second National Commission on Labour (2002) informal sector comprises large number of rural workforce and substantial urban workforce, potentially using family labour and technology. The unorganized workers are engaged in casual, seasonal and scattered employments which prevents them to be unionized. The National Commission on Labour listed the categories of unorganized labours including contract labours working in the construction sector, casual labour, labour employed in small scale industry, handloom/power-loom workers, beedi and cigar workers, employees in shops and commercial establishments, Sweepers and scavengers, workers in tanneries, tribal labour and other unprotected labours.

According to 1st National Commission on Labour 'unorganized labour are those who have not been able to organize themselves in pursuit of common objectives on account of constraints like casual nature of employment, ignorance and illiteracy, small and scattered size of establishments and position of power enjoyed by employers because of the nature of industry. To this, poverty, indebtedness, working for below minimum wages, lack of bargaining power, using indigenous technology, compelled migration etc. may also be added.' **Government of India, Report of National Commission on Labour, 1969.**

As far as statistical information is concerned, it has been observed that maximum numbers of unorganized labours are available in the agricultural sector (around 50 percent) as compare to other sectors like home-based workers, workers in various types factory and building & construction industry.

The most significant issue to be seriously noted-as per the report of National Sample Survey Organization that from 2000 onwards number of casual worker are haphazardly increasing and the strength of regular workers are decreasing in India. Furthermore, according to the survey of NSSO, 30 percent of unorganized workers are always on the move, for them Justice T S Thakur of the Supreme Court emphasized on the need of proper implementation of welfare schemes by the central as well as state governments both. "The largest constituency of our workers is in the unorganized labor. Of the 46 crore workers, 14 crore are women. Every state has poverty alleviation schemes but the benefits don't reach them," said Justice Thakur. He added that Rs 750 crore was collected for welfare of labour in Punjab but little has been spent. There is zero percent spending in 2008, 2009, 2010, 2011, 2012 and 2013. We are insensitive towards them"

Objectives of the Study

1. To study the problems faced by the unorganized workers.
2. To compare their problems with organized worker with the reference of labour laws.

Challenges or problems faced by unorganized worker

1. **No Social security-** The idea behind the concept of social security is that the state shall be responsible for protecting its citizens against certain contingencies of life. The basic principle of social security implies collective action by the community to help a member against misfortunes and wants he cannot meet with his own resources. It is based on business ethics "ideals of human dignity and social justice".

According to ILO "Social security is the protection which society provides for its members through a series of public measures against the economic and social distress resulting from sickness, maternity, employment injury, unemployment, invalidity, old age and death. These measures are also of a great importance to a country which is on the way of large-scale industrialization as they improve employee's morale by providing sense of security to them against various industrial hazards."

Social security is of great importance to developing and underdeveloped countries which aims at large scale rapid industrialization. It helps in improving morale of labour by providing sense of security to them against various industrial hazards, occupational diseases and any other types of unfair practices.

Legislative Protections-India has enacted several social security legislations. But all these legislations are applied only on organized labours because of their strength and unionism. All unorganized labours are deprived from the benefits of these laws. The laws given below are the summary of some of the legislations which provide social security-

- a) **Employees' Provident Fund & Miscellaneous Provisions Act, 1952**-The primary purpose of **PF fund** is to help **employees** save a fraction of their salary every month so that he can use the same in an event that the **employee** is temporarily or no longer fit to work or at retirement. Employers and **employees** both contribute 12% of wages in contribution accounts. The benefit of this act is limited to organized labour.



b).Employees State Insurance Act, 1948(Hereinafter ESI)- To provide for health care and cash benefits in the case of sickness, maternity and employment injury.

C).Payment of Gratuity Act, 1972- To provide for payment of gratuity on ceasing to hold office.

The benefits of these acts are limited to organized labour. Social security is a human right and should be attainable by all unorganized labours.

2. No Compensation program: Introduction of different hazardous machinery, high rise in construction, unguarded machinery, various toxic chemical, coal dust, lime dust, blazes crude materials for synthetic generation leads quantities of tragic deaths of many unorganized labors because the working condition is more severe as compared to that organized sectors furthermore the knowledge of occupational health and safety is negligible of the workers of unorganized sectors.

Every employee needs a secured job and wants to get compensation for the expenses he has incurred. This is a requirement that needs to be fulfilled by the company whether it is small scale or large scale. After all, a company's success depends on its employees. Therefore, the protection of employees' and their safety is a top priority of a company. Thus a milestone law was introduced in India named "The Employees Compensation Act, 1923". Earlier this Act was known as the Workmen Compensation Act, 1923. This act provides compensation for workmen in cases of industrial accidents/occupational diseases resulting in disablement or death in organized sector. The unorganized labour is overwhelming in terms of its number range and therefore they are exempted from this law also.

3. Insecurity of job- Unorganized sector faces basic constraints such as casual nature of employment. As discuss above as prima facie these acts applied on unorganized sector as well but due to less number of workers in any organization as given in laws, unorganized workers exempted. Social Security can be defined as "the provision of benefits to households and individuals through public or collective arrangements to protect against low or declining standard of living arising from a number of basic risks and needs.

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.

Section 25G of "The Industrial Disputes Act, 1947" lays down the procedure of retrenchment. Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman. The employer is also required to maintain a seniority list of the workmen. The system of last in first out is to be followed in retrenching workmen. While effecting retrenchment of the workmen, it is obligatory on the part of the employer to pay retrenchment compensation at the rate of 15 days wages (for every completed year) to be calculated at the last drawn salary of an employee. The calculation of compensation is to be based from the date of appointment and in case an employee has completed 240 days, he will be entitled to 15 days retrenchment compensation besides one month's notice or salary in lieu thereof as if he has worked for one year. 240 days includes Sundays or off days as well as festival or national holidays.

4. Low wages and have no power of bargaining: Minimum wages in most of the time applies for labors working under the purview of organized sectors or formal sectors. One another labour law "The Minimum Wages Act, 1948" is the answer for the question 'what is about the security of basic needs of labors?' This act is legally non-binding, but statutory. Payment of wages below the minimum wage rate amounts to forced labour. Wage Boards are set up to review the industry's capacity to pay and fix minimum wages such that they at least cover a family's requirements of calories, shelter, clothing, education, medical assistance, and entertainment. Under the law, wage rates in scheduled employments differ across states, sectors, skills, regions and occupations owing to difference in costs of living, regional industries' capacity to pay, consumption patterns, etc.

5. No Trade Union to put their demands: Maximum numbers of informal workers do not have any knowledge about the existence and rules of labour union. Simultaneously many workers of unorganized sectors, like union of agricultural workers, brick workers, hosiery workers, construction rakes, fish and forest workers, domestic workers, biri rollers, sex workers, liquor shop employees have joined *Shramajivi Swikriti Manch* and *Asanghathit Kshetra Shramik Sangrami Mancha* with unorganized sector assembled them under in one platform.



“**The Trade Union Act, 1926**” is an act which provide for the registration of Trade Unions and in certain respects to define the law relating to registered Trade Unions. Whereas it is expedient to provide for the registration of Trade Unions and in certain respects to define the law relating to registered Trade Unions.

An organized worker who is a member of any trade union feels very safe. Union provides him an opportunity to achieve his objectives. Union protects the economic interest of the workers and ensures a reasonable wage for them, so it improves the economic lot of workers by securing higher wages, bonus, allowances and perquisites etc. Union also provides (in certain cases) cash assistance at the time of sickness or termination of job. Whereas an unorganized worker who is not a member of union because of his less strength, feels insecure for his losing job, low wages and face exploitation occur at working area by the employer.

6. **Maximum workers are living in unhygienic conditions:** -They live in unsanitary conditions and likewise battle with sewer seepage framework overflowing drainage system, flooding and storms. They live in a slum area. The facilities such as washing, urinal, toilets facilities at work are found to be below standard. It could be said that no such facilities were provided to workers in the industries. If we talk about organized labours, they are blessed with **The Factories Act, 1948**” Section 11 ensures the cleanliness in the factory. It must be seen that a factory is kept clean and it is free from effluvia arising from any drain, privy or other nuisance.

7. **Extended Hours of Work:** -Long hours of work and no break in the unorganized **sector beyond the labour and regulatory norms** are standard in India. In the agricultural sector, there are **no fixed hours of work** as there are no laws to act as guidelines for the working conditions of agricultural labourers, but are given again in “**The Factories Act, 1948**” every adult (a person who has completed 18 years of age) cannot work for more than 48 hours in a week and not more than 9 hours in a day. According to Section 51 of the Act, the spread over should not exceed 10-1/2 hours.

8. **Harassment issues at the workplace for women- Sexual Harassment** is a big issue that occurs at the workplace. A safe workplace is women’s legal right, but it has been neglected. They still experience a wide range of physical and psychological ailments due to **eve-teasing and sexual harassment**. In spite of the Act that was enacted in the year 2013 still, the woman is being assaulted at their workplace.

9. **Seasonal Employment**-The workers are employed as a seasonal employee. They are employed only for a particular season and remain unemployed during the remaining year. Employment is only for 3-4 months. In India **Mahatma Gandhi National Rural Workers Employment Guarantee Act, 2005** aims to provide employment security by guaranteeing at least 100 days of work in the most backward districts of the country who can perform manually.

10. **Insecurity due to natural disasters:** -There are many natural disasters like floods, droughts, earthquakes, famine etc. which also have a devastating impact on the informal sectors. Natural disasters do not wipe out the productive base of the informal sector, but can also affect the limited household assets of the owner.

Special Legislations: There are some special laws designed only for the unorganized class. Some of those are:

1. **Contract Labour (Regulation & Abolition) Act, 1970** – It aims to regulate the employment of the contract labour in every establishments employing twenty or more workmen and also to provide for its abolition in certain circumstances

2. **Inter-State Migrant Workmen (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.

3. **Cine-workers welfare Fund Act, 1981** – An Act to provide for the financing of activities to promote the welfare of certain cine-workers. "cine-worker" means an individual who has been employed in connection with the production of not less than five feature films to work as an artiste (including actor, musician or dancer) or to do any work, skilled, unskilled, manual, supervisory, technical, artistic or otherwise; and whose remuneration with respect of each of any five feature films, has not exceeded 1600/- per month in case of monthly payment and Rs. 8000/- where such remuneration has been by way of a lump sum.

4. **Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Fund Act, 1976** – An Act to provide for the financing of activities to promote the welfare of persons employed in the iron ore mines, manganese ore mines and chrome ore mines.

5. **Limestone and Dolomite Mines Labour Welfare Fund Act, 1972** – An Act to provide for the levy and collection of a cess on limestone and dolomite for the financing of activities to promote the welfare of persons employed in the limestone and dolomite mines.



6. Mica Mines Labour Welfare Fund Act, 1946 – An Act to constitute a fund for the financing of activities to promote the welfare of labour employed in the mica mining industry.

7. Beedi Workers welfare Fund Act 1976- An Act to provide for the financing of measures to promote the welfare of persons engaged in beedi establishments.

8. Building and other Construction Workers (Regulation of Employment and conditions of service) Act, 1996- An Act to regulate the employment and condition of service of buildings and other construction workers and to provide for their safety, health and welfare measures and for other matters connected therewith or incidental thereto.

9. Unorganised Workers’ Social Security Act, 2008-Finally, India has enacted an Unorganised Workers’ Social Security Act, 2008 for providing social security to the Unorganised Sector. The government has passed the bill on social security of unorganised workers in the Lok Sabha on December 17, 2008 despite opposition from trade unions, organisations of workers and civil society. It provides for framing of schemes by the Central as well as State Governments and funding of central government schemes. To achieve its objective, there is a provision for the constitution of the Board at the State level and also the funding of State Government Schemes for record keeping by district administration and for the setup of the workers facilitation centre. Finally, it empowers the Governments at Central and State levels for framing the rules. All unorganized sector workers above 14 years are entitled to register themselves and receive a ‘smart’ identity card.

Conclusion

As many problems are faced by unorganized workers such as low wages, exploitation of workers, cruel conditions of workers etc. so the legislative system of India protects the rights of the unorganized workers with the help of various articles covered under the constitution of India.

The Government of India took a step by enacted a legislation ‘Unorganized Social Security Act, 2008’ for providing underlying social security to the unorganized workers who work in an unorganized sector. In pursuance of this Act, the Government of India has implemented numerous schemes such as Aam Admi Bima Yojana(Life Insurance), old age pension scheme, Rashtriya Swasthya Bima Yojana (health insurance) etc.

The Central Government, under the requisite section and the State Government under the specified section, have been empowered to make the rules for the smooth functioning.

The Central Government has power under section 11 to give direction to the State Government and National Board for the proper implementation of the provisions of this Act.

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