

EVALUATION OF EFFECTIVENESS OF EXSISTING LAWS IN PROTECTING THE MOST DEVALUED AND DEPRIVED UNORAGANISED SECTOR IN INDIA

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ABSTRACT

Unorganized sector is the main characteristics of Indian economy covering maximum hands working towards its growth. This sector accounts for more than ninety percent share in the economy against the organized sector. This sector lacks formal relationship between employer and employed, security and regularity of payment, stability of job or employment, deprivation and devaluation of real cost of the labour. It includes Contract labour including construction workers, casual labour, labour employed in small scale industry, handloom/power loom workers, beedi and cigar workers, employees in shops and commercial establishment, sweepers and scavengers, tribal labour and other all who are unprotected. They have 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 etc. Many acts have been brought into the force to provide protection to the labour of this sector. Various bills have been passed for the welfare of labour of this sector time to time. But either the implementation is not proper or mass group of workers are unaware of it. This paper gives theoretical idea of this unorganized sector, their problems, as various laws passed for their welfare. Paper concludes stating deprivation and need of government affords toward safeguarding interest of unorganized labour with social security and human rights.

Keywords: Unorganized, Social Security, Labour Laws

OBJECTIVES OF STUDY

1. To understand unorganized sector and its features.
2. To discuss the classification of labour in this sector

3. To know the various labour laws and their effectiveness to unorganised sector.
4. To examine the problem of the unorganised sector & to suggest measure to overcome the problems.

Unorganized Sector

According to 1991 census, total workforce working in unorganized sector accounts for 90.6% whereas organized sector consist 9.4% workforce. The rate of growth of labour has been increasing in unorganized sector, mainly in Small and tiny enterprises or informal kind of employment. This sector is complex to comprehend and prove statistically as it is spread and scattered lacking statistical accuracy and data. The high employment flexibility is observed in this sector. It may be seasonal in case of agriculture labour or based on demand or contract assigned. Even the number is too large to be considered disguised employed when compared with actual production. It can be termed as 'Unprotected sector' too. The first national commission on labour, under the chairman of Justice Gajendragadkar, defined the unorganized sector as that part of workforce who have not been able to organize in pursuit of a 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. The report also observed that the unorganized sector is characterized by high incidence of casual labour mostly doing intermittent jobs at extremely low wages or doing their own account work at very uneconomical returns. The commission listed illustrative categories of unorganized labour. These are:

Contract labour including construction workers, casual labour, labour employed in small scale industry, handloom/power loom workers, beedi and cigar workers, employees in shops and commercial establishment, sweepers and scavengers, tribal labour and other all who unprotected labour.

Categories of Unorganized Sector

Mines and Quarry Workers:

According to the Mines Act,1952 any person who works in a mine as manager or who works under appointment by an owners agent or manager of a mine with or without knowledge of such person whether for wages or not is treated as 'employed in a mine.' This act covers persons employed in mining operations relating to the development of the mine or any operation of servicing, maintenance, or repair of any machinery used in the mine.

Domestic Workers:

The domestic workers are found in the urban areas as well as rural areas, it is well known that many persons, who are employed in domestic work, are people who have migrated due to urban areas in search of employments. It is believed that domestic service does not need any special skill.

Contract Labour:

Unlike direct labour which is borne on the pay or muster roll of the establishment and entitled to be paid wages directly, contract labour by and large, is neither borne on pay-roll nor is paid directly. In several contracts the wage rates to be paid to labour are stipulated, but

whether payment is made on that basis or not is hardly the concern of the contractor himself or of the person for whom the contractor works.

Plantation Workers:

The Plantation Labour Act, 1951 applies only to those plantation which measure 5 hectares or more, and in which 15 or more persons are employed or were employed on any day during the preceding 12 months. It includes workers employed in offices, hospitals, dispensaries, crèches, balwadis and school, but does not include those employed in a factory, medical officers or those employed in a managerial capacity. It also does not apply to workers who get monthly wages of more than Rs.750. Every plantation has a certain number employees in its regular workforce. They are required for day to day jobs such as pruning, weeding, making roads and drains, planting and filling, spraying, pest control chemicals.

Constructin Labour:

They may be broadly classified as skilled and unskilled. Though child labour is prohibited, children are engaged for unskilled jobs. Most of the workers in this sector are employed on as casual basis. Unstable employment and shifting of workplaces are the basic characteristics of work for constructions workers. They are known as 'sweat labour'.

Bidi Workers:

Employment in tobacco processing, including bidi manufactories, is included in the schedule to the minimum wages act, 1948. According to 1961 Census there were nine lacks of workers engaged in the industry, of whom, about 5.5 registered trade unions in taobacco manufactories was 1811 with a membership of 97000. Working conditions prevailing in the reason that although the labour laws, like the factories Act,1948 apply to such establishment, some employers, particularly bigger ones, circumvent the provisions of the Act by splitting their concerns into smaller units.

Scavengers:

There is a very large number of people-engaged in manual scavenging in different parts of the country, in rural areas as well as urban areas. Allocation of labour on the basis of caste is one the fundamental tenets of the caste system. Within the caste system. Dalits have been assigned tasks and occupations that are deemed virtually polluting for other caster communities.

Rag Pickers;

Rag picking or scrap collection are not a new phenomenon especially in industrial towns and metropolitan cities. They have a bearing on the urban economy. Many production enterprises depend upon the recycling of these wastes. Scrap collection is mostly done by women and children in a working environment that is most unhygienic.

Street Vendors:

They are hawkers most visible and active category of the workforce in the informal sector. Most of them come from improvised rural families. Street vending absorbs millions of those who come to cities as economic refugees from the villages, because they can enter his occupation with small amounts of capital.

Bonded Labor:

Where a person provides labour or service to another for remuneration which is less than the minimum wages, the labour or service provided by him clearly falls within the scope and ambit of the words 'forced labour' under Articles 23.

Home Based Workers or Artisans:

They are the major category of unorganized workers. They are those who are engaged in the production of goods or services for an employer or contractor in an arrangement whereby the work is carried out at the place of their own choice or say their home. Their issues and problems are very complex because of the absence of any direct formal relationship with the employer. Being ambiguous and indefinite relationship, they are subjected to exploitation in various forms.

In India, there is no authentic data on home based works. Official data sources such Census of India, do not recognize these workers as an independent category but have included them in the broad category of those working in house-hold industries. They are not visible in the national statistics. With a view to providing legislative protection, welfare measures and social security to a large number of home based workers who have been hitherto neglected, the possibility of formulating a National Policy on Home based workers is being explored in consultation with other concerned Ministries/ Departments, state government.

Evaluation of Existing Labor Laws

Name of the Act	Purpose/ Applicability
The Workmen's Compensation Act 1923	Under the employer is liable to provide monetary compensation to workers in case of death of employed worker while performing his duties
The Building and Other Construction Workers Act 1996	Under this, a fund has to be created with revenue from cess collected from the employers and contribution of workers. Actually, this law is not beneficial to workers as they cannot contribute regularly having casual type of job.
The minimum Wage Act 1948	It is one of the most important laws enacted for the benefit of unorganized labour. Here irrespective demand and supply or market forces, wages are determined. Self employed and home based workers are not benefited from purview of this act. However the model of fixing minimum wage is highly unscientific.
The factories Act 1948	This is only applicable to manufacturing units organized as factories. The mass population form unorganized sector remain unbeneficial.
The Contract Labour Act 1970	It is applicable to the contractors who employ below 20 workers. So it has many limitations to take advantage of.

Contd....

Name of the Act	Purpose/ Applicability
The payment of Gratuity Act 1936	It is applicable to all establishments employing 10 or more employees. The condition is to have spent at least 5 years with the same employer. And thus all establishment are not under the scope of the law.
The Beedi and Cigar Workers Act 1966	Only hired or contract assigned workers get benefit from it. The self employed workers are remaining unbeneficial.
The EPF Act	This act is applicable to factories and establishments that employ 20 or more persons. A large number of workers working in small units remain out of the ambit of the Act.
The Mines Act 1952	It aims at providing for safe as well as proper working conditions in mines and certain amenities to workers employed therein.
Plantation labour Act 1951	It is applicable to tea, coffee, rubber and cinnamon plantation workers subject to central government's approval for any extention.

Remedial Measures

There is need for a multidimensional remedial actions to improve lot of unorganised sector in India.

Along with framing of suitable laws and amendenent of various provisions of the existing laws, there is need for honest implementation & evaluation strictly on objective parameters.

Broad approach should be brought in laws covering all type of workers whose contribution informally to the nations is huge .Existing plans, programmes and projects undertaken need to be revisited & changed to make them more suitable & effective.

Special interventions should be brought in where the benefits is observed unreached.

Encouragement should be given to voluntary associations who have been working for the sector selflessly with good track record.

Bonded labour, child labour and exploitative work system should be reviewed and culprits should be punished exemplary under the purview of legislation.

Workers should be encouraged to get organized for the group welfare cause.

In order to safeguard interest of workers of unorganised sector a comprehensive umbrella legislation covering economic & social security aspects to all unorganised sector workers is the need of hour for better employment & welfare facilities.

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