

RE – VISITING THE LABOUR LAWS FOR THE UNORGANISED SECTOR

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Abstract

One of the major features of the Indian economy is the impact of a vast majority of labours employed in the unorganised sector. Now the distinguishing feature of the unorganised sector is the non-applicability of labour laws and other regulations which provide basic working conditions, social security and job security. This continues to be a major problem in this sector which has resulted in extreme exploitations of the employees of the unorganised sectors in terms of wages/salaries, work-hours, job-guarantees. The families of such employees have to regularly move from one place to another in search of work as a result of which there are more number of children who drop-out from schools. The legislations providing for social securities for old-age, health-care and assistance in the event of death, marriage and accidents etc. also do not apply to majority of these employees as all the categories of jobs of the unorganized sector are still not identified by the existing laws.

This paper discusses whether the categories of the unorganised sector where the existing labour laws are applicable are being enforced at all? If not, then how is it affecting the employees and their families? The authors have also tried to find how easily legal aid is being provided to any category of workers which fall under labour law. With the help of empirical research the authors have also been able to compare, the current condition of implementation of existing laws and the legal aid provisions, for all the employees of the unorganised sector. Authors feel that there is a need to strengthen the existing laws for the unorganised sector and some stringent steps need to be taken before the adverse effects become irreparable. Furthermore a proper mechanism needs to be imposed for Legal aid assistance and labour law literacy for all those who are in need.

Keywords: Unorganised sector, Legal aid, Labour Laws, exploitations, non-applicability

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INTRODUCTION

Almost 90 per cent workforce in India is part of the unorganised sector. “The unorganised sector consists of all unincorporated private enterprises owned by individuals or households engaged in the sale and production of goods and services operated on a proprietary or partnership basis with less than ten total workers”.¹

‘Unorganised Sector’ means an venture owned by individuals 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.²

The benefits of various schemes or laws started for the welfare of the labours of the unorganised sector are proving ineffective due to poor implementation by the respective government authorities. All the Authorities are there, all the laws are there for them, but what is not is the proper implementation of the schemes or the laws.

Justice Thakur, the former CJI, also executive chairman of the National Legal Services Authority, said during a speech that “most of the workforce in unorganised sector gets wages lower than the fixed minimum wages. Though there is a construction workers’ protection Act but the authorities responsible for its implementation have shown little sensitivity.”³ In a similar way there are a lot of laws whose implementation, knowledge; awareness is not reaching to the targeted sector.

The Report for the national commission of labours says that the laws that the government proposes for the unorganised sector cannot be effective unless they themselves are aware of the laws, and fight to ensure that laws are brought into force; till the time there are effective means to execute, check and offer quick redress; unless breaches of the law are punished with deterrent penalties, and unless the organs of public opinion and movements and organisations mount vigil, and intercede to ensure that the provisions of the laws and welfare systems are

¹ National Commission for Enterprises in the Unorganised Sector, Report on Condition of Work and Promotion of Livelihoods in the Unorganised Sector, 2007, p.4.

² Section 2(l) of the Unorganised Workers’ Social Security Act, 2008

³ Speech in Two-day colloquium on ‘Workers in Unorganised Sector-Challenges and Way forward’, Chandigarh, April, 2015; The Indian Express; Available at: <http://indianexpress.com/article/cities/chandigarh/90-indian-workforce-in-unorganised-sector-deprived-of-welfare-schemes-says-justice-t-s-thakur/>

acted upon.⁴ The government is talking about the self-awareness, that it is important for the labours but the government forgot that the workers in the unorganised sectors are from everywhere, from the tribal areas to the household workers who don't have any idea about the laws which the government has framed as many of the labours in the unorganised sectors are illiterate and do not have access to the proper technology to get information about the laws which were enacted in favour of them. First of all, the government needs to realise that before making the law, they should be ready that how will they implement the law for everyone. Mere framing of the law won't help but its proper implementation is the real challenge for the government for a sector which doesn't know about their right and other laws.

The fact can't be ignored that the unorganised sector does not get enough protection through labour legislation. Although, with the existence of labour laws, for different reasons, the workers in this sector do not get social security and other benefits, as do the workers in the formal sector. Here, workers are highly oppressed by entrepreneurs. They are employed on a casual basis. With the exception of very few cases, there is hardly any institutional machinery to fight for the workers. As of now, collective bargaining has not been able to make a way in the unorganised sector. As the workers in the unorganised sector, particularly women do not have protection or adequate bargaining power.

Categories Which Fall Under Unorganized Sector

Everything which doesn't fall under the organised sector comes under the unorganised sector. Saying this would be wrong. As we have already discussed that the unorganised sector on one hand covers tribal area as well as on the other hand also covers the household workers. So this means that the unorganised sector is vastly stretched and cannot be defined in a particular definite sector or group. There are different kinds of areas, works, organisation etc, and all are covered in this sector. It has often been brought up, and perhaps commonly accepted, that there are areas in the unorganised sector where it is difficult to identify an 'employer', and hence, an employer - employee relationship, which the law can attempt to channelize or influence by defining rights and responsibilities, and building up a system of social security on a contributory basis. But still But still let's discuss the different categories

⁴ Report of the national commission of labours; Chapter 7, 'Unorganized Sector'; Available at: http://www.prsindia.org/uploads/media/Unorganised%20Sector/bill150_20071205150_National_Commission_on_Labour_2_Chapter_7_unorganised_sector_Part_A.pdf

which fall under the unorganised sector as categorised by the Ministry of Labour, Indian Government:⁵

In terms of Occupation: Small and marginal farmers, landless agricultural labourers, share croppers, fishermen, those engaged in animal husbandry, beady 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. come under this category.

In terms of Nature of Employment: Attached agricultural labourers, bonded labourers, migrant workers, contract and casual labourers come under this.

In terms of especially distressed categories: Toddy tappers, Scavengers, Carriers of head loads, Drivers of animal driven vehicles, Loaders and un-loaders come under this category.

In terms of Service categories: Midwives, Domestic workers, Fishermen and women, Barbers, Vegetable and fruit vendors, Newspaper vendors etc. belong to this category. In addition to these four categories, there also exists a large portion of unorganized labour force such as Cobblers, Hamals, Handicraft artisans, Handloom weavers, Lady tailors, Physically handicapped self-employed persons, Rikshaw-pullers, Auto drivers, Sericulture workers, Carpenters, Tannery workers, Power loom workers and Urban poor. By this we can find out and it clearly inferred that the unorganised sector is one of the most important sectors of the Indian market and it plays a very important role as far as the Indian economy is concerned. Thus, the sector needs security and for that it is necessary to have proper implementation of labour laws.

The Indian Economy is considered by the existence of a huge majority of informal or unorganized labour employment, contributing immensely to the GDP whilst employing millions of people year on year. The Unorganised sector in India is highly diverse in terms of the extent of the enterprises, variety of products and services produced and the levels of technology employed. Most of the Micro Small Medium Enterprises are also established in the informal or unorganized sector and they deploy a large number of work-force on an informal basis because of tedious and stringent labour laws. Large of the workforce is deployed on the basis of contractual and daily wage labourers wherein large number of labour

⁵ Key Labour Issues in the Unorganised sector; Available at: <http://www.visva-bharati.ac.in/InstitutionsCentresSchools/Contents/cjmc-report-080413.pdf>

force is unskilled or semi-skilled. Even the government realises that the unorganised sector is one of the most important sectors for the Indian economy and thus they frame every possible law to protect such labourers and their interests, although there are some lacuna in the implementation of the laws framed by the government. We shall discuss the different laws framed for the labourers by the government and then to analyse the data collected to check whether there is proper implementation of the laws which are framed.

Research Problem

We wanted to explore the existing status of the legal aid in India and knowledge the workers of the unorganised sector have regarding the existing laws. For this we did there was a need to conduct an empirical research.

RESEARCH QUESTIONS

- Why do we need to re-visit the labour laws?
- In a country where there are already some labour laws existing for the category, is there a need to add more laws?
- Is the implementation of the laws the problem or the lack of knowledge?
- Is demography of the employees related to legal literacy?

SCOPE OF THE STUDY

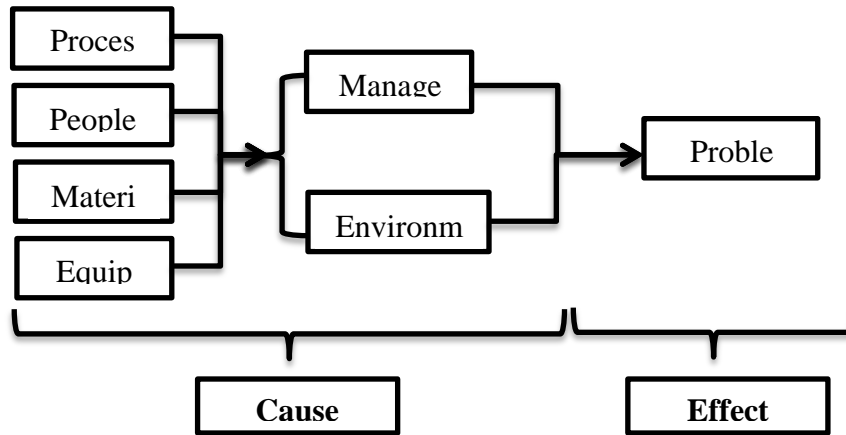
This study intends to provide insights on whether our justice system has been able to ensure that the Government will secure to all low income workers belonging to the unorganized sector; work, a living wage, suitable condition of working thereby ensuring a decent standard of life and full enjoyment of social and cultural opportunities.

METHODOLOGY

Conceptual Back Ground Using Theories

Theory applied to our model is Fishbone model theory which uses Ishikawa diagrams (also called fishbone diagrams, herringbone diagrams, cause-and-effect diagrams, or Fishikawa) that were created by Kaoru Ishikawa (1968) that show the causes of some specific event.

Common uses of the Ishikawa diagram are product design and quality defect prevention to identify potential factors causing an overall effect. Each cause or reason for imperfection is a source of variation. Causes are usually grouped into major categories to identify these sources of variation.



- People involved with the process are the ones who think that Legal Literacy will be helpful to them. The process is performed by using different online and offline media such as social media sites, Television media, print media, school education, workshops etc.
- Machines involved the use are; computers, internet, televisions, tablets, laptops and mobile phones, classrooms, teachers, lawyers.
- Raw materials were the human efforts to search for information for the research by using printed survey questionnaires.
- Data generated were the results and information gathered after information search by using analytical tools like SPSS.
- Environment includes any of the places be it home, work place, streets where the information was accessed.

RESEARCH DESIGN & DATA COLLECTION METHOD

This research is classified as Empirical Research Design and conducted according to quantitative approach which has been carried out to describe the *Need to Re-visit the Labour Laws in India* by using Judgement Sampling technique. The data was collected using printed questionnaires and total of 150 respondents were approached.

The existing knowledge of the labour laws and the perception of implementations of existing laws in India were judged using five point Likert Scale on the level of agreement of (1) “strongly disagree” to (5) “strongly agree”. The demographic profiles of the respondents were measured on nominal scale.

Sampling Design & Size

In this research Judgement Sampling Technique is used to represent the population of capital cities of North India by conducting the research in Lucknow city. The population of the sample belongs to labour/employee/self-employed that belongs to the income group of less than 3lakh per year and work in the unorganized sector in urban cities of India and are of more than 14 years of age. The sample size taken was 152 samples but the final data entered was of 130 after elimination of incomplete questionnaires and miss-placed one. The method used for survey was through a mall-intercept method only.

Variables Considered and Hypothesis

This research is aimed to collect information on the perception and knowledge the people working in the unorganized sector have and how to they seek to improve on it.

Belief:

- India needs better enforcement of labour laws
- Legal Literacy will be helpful

Perception:

- Legal aid is easily accessible to all
- Strict enforcement of law will make the work conditions complex
- The current working conditions are good.

Measurement of Variables⁶

The variables in questions 3 to 8 in part B of the questionnaire pertaining to the knowledge of the existing labour laws and implementation of the same are measured using a five point

⁶ Refer to appendices for the questionnaire which was used for the data collection

Likert Scale on the level of agreement of (1) “strongly disagree” to (5) “strongly agree”. The questions of Part A and Question (2 and 3) of Part B of the questionnaire are being measured on a nominal scale where the demographic profiles of the respondents are asked.

Also, the variables are chosen keeping in mind the key principle of analytical design that the design has to evolve as you collect more data. This means that the variables would need to be changed or evolved as we collect more and more data.

Analytical Design

Linear Regression Analysis: It estimates the relationship between two or more variables.

There are multiple benefits of using regression analysis. They are as follows:

1. It indicates the **significant relationships** between dependent variable and independent variable.
2. It indicates the **strength of impact** of multiple independent variables on a dependent variable.

Regression analysis also allows us to compare the effects of variables measured on different scales, such as the different information sources which will more helpful for attaining more knowledge on the existing laws. Hence this benefit helps market researchers / data analysts / data scientists to eliminate and evaluate the best set of variables to be used for building predictive models.

EXISTING LABOUR LAWS IN INDIA

It is true that while the independent India’s constitution was drafted, social security was a main provision included in List III to Schedule VII of the constitution and it was the joint responsibility of the Central as well as the state government. Many of the directive principles of state policy in relation to the aspects of social security were included in the Indian constitution.

Article 246 (4) of Constitution of India empowers both Centre and State to frame any law related to the interest of the labour. Most of the Labour Laws are enacted by the Parliament of India but they are implemented by State Governments through their administrative machinery. In Labour Laws as word “LAWS” denotes that it is not a single act but a bunch

of different Acts, Rules and Regulations enacted by the Parliament of India and different States Legislatures.

In the Indian scenario, the labour laws cover almost all types of industries. There are different laws for the labourers enacted by the government for different type of industries, taking into account the conditions under which the labourers of that industry are working (as for Dock Workers, Coal Mines Workers, Plantation Workers etc. There are different laws to regulate their employment and conditions of service). Not only industry but the laws are made for different subjects also (as for Wages-Minimum Wages Act and Payment of Wages Act, for compensation – Workman Compensation Act, for maternity benefit to women’s – Maternity Benefit Act etc.)⁷ Following are discussed the major laws in relation to the unorganised sector:⁸

- ***Employees State Insurance Act, 1948:*** The ESI Act provides the benefits to workers in the cases relating to sickness, maternity and employment. The ESI Act applies to Factories and other classes of establishments (industrial, commercial agricultural.
- ***The Payment of Gratuity Act, 1961:*** The Act provides for payment of gratuity to employees employed in factories, shops and establishments having served a continuous service for 5 years, in the event of their superannuation, retirement, resignation, death or disablement.
- ***The Maternity Benefits Act, 1961:*** The Act regulates the employment of women in different workplaces for periods before and after the birth of the child, and to provide for maternity benefit and other benefits. It shall apply to every work place having more than 10 employees.
- ***The Industrial Disputes Act, 1947:*** Contains provisions regarding lockouts, retrenchment, investigation and settlement of industrial disputes and unfair labour practices and it applies to all the commercial and industrial workplaces.

⁷ Fundamentals of Labour Laws; Available at: <http://www.lawsindia.com/Industrial%20Law/labour/MAIN.html>

⁸ Summary of Key Labour Law Legislation; Available at: <https://www.tralaw.in/summary-of-key-labour-law-legislations/>

- ***Factories Act, 1948:*** Factories Act has provisions for ensuring the welfare of the workers employed in factories in terms of health, safety, working hours, benefits, leave, overtime pay, etc.
- ***Child Labour (Prohibition and Regulation) Act, 1986:*** Prohibits the appointment of children in few occupations and to forbid their engagement in hazardous occupations.
- ***The Minimum Wages Act, 1948:*** Under the Act, the State and Central Governments are empowered to give notice regarding the minimum wages payable to employees on factors including the industry, location and nature of work done and it should not be less than what is prescribed.
- ***The Payment of Wages Act, 1936:*** To regulate the payment of wages in a proper form at regular intervals without unlawful deductions and to make sure a speedy and effective remedy to employees suffering against unlawful deductions and/or baseless hindrance caused in paying wages.
- ***The Equal Remuneration Act, 1976:*** The Act provides for the payment of equal salary to both men and women workers for similar nature of work and prevention of discrimination, on the ground of sex, against women in the matter of employment and for matters connected therewith or incidental thereto.
- ***Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal Act, 2013:*** The SE Act prescribes a mechanism for prevention and prohibition of workplace sexual harassment and for redressal of grievances pertaining to workplace sexual harassment.

These all are some of the important acts or laws forming the part of labour laws for the unorganised sector. But the main issue here is that even after having these laws there is no knowledge amongst the labourers regarding their rights and benefits from such acts. During our survey when we were talking to the labourers of the unorganised sector we found out that they're having a lot of problems regarding their wages working hours etc. They did not even know their minimum wage for a day of skilled or unskilled labour. Most of the labourers were not even aware of the basic rights which they possess and were suffering because of that for a long time now. The Authors feel that only the organised sector is taking some benefits

out of these laws and the unorganised sector has no clue of what is there for their benefits. Few of the problems of the labourers which we came across are listed below:

- ***Lack of employment:*** The schemes by the government giving employment such as NREGA etc. are flop as the worker is only getting work for 100 days and after that the same old condition persists.
- ***Work Place:*** A lot of times house-maids, sweepers are given inhumane conditions and treatment which shall not be there.
- ***Caste and Class Difference:*** the labourers are often harassed for the caste they belong to, although, it is a crime to degrade anyone on the basis of caste, colour, creed or sex.
- ***Lack of Political Support:*** No one comes up for support apart from few NGO's who have often told them about their rights.
- ***Migration:*** They have to migrate every now and then because of the lack of employment.
- ***Unequal distribution of money:*** Many female workers said that they were given less amount of money for the same work as the men did. When they asked, they were not entertained or asked for sexual favours.
- ***Social security and measure:*** they felt that there was no job security, as for taking even a day off because of illness etc., they were removed from the jobs.

In the next segment the Authors have tried to empirically research that does the Labourers has any knowledge about the laws and if not, what is the way they would prefer to get the knowledge of the same. Also, what can be the better implementation methods and ways to enhance the awareness about the existing laws for the unorganised sector.

DATA ANALYSIS AND INTERPRETATION

The statistical computer program used for the questionnaires data analysis was SPSS 14.0 version for windows. Linear Regression Analysis was used to determine whether the respondents think information sources will help them gain more knowledge of the existing laws in India. Descriptive statistics was used explore the effect of demographic background

of respondents on the belief and perception with respect to implementation of labour laws and current practice.

Data Analysis

Comparing Means

We have used gender as the grouping variable and question 3 to 9 as dependent variables. The test used is Independent T-Test. The Independent Samples T-Test compares the means of two independent groups in order to determine whether there is statistical evidence that the associated population means are significantly different. The results are as follows:

Group Statistics					
education qualification		N	Mean	Std. Deviation	Std. Error Mean
Industrial Employment (Standing Orders) Act 1946	>= 2.00	122	.2787	.45020	.04076
	< 2.00	8	.0000	.00000	.00000
Contract Labour (Regulation and Abolition) Act 1970	>= 2.00	122	.3770	.48665	.04406
	< 2.00	8	.0000	.00000	.00000
Inter-State Migrant Workmen Act, 1979	>= 2.00	122	.0000	.00000 ^a	.00000
	< 2.00	8	.0000	.00000 ^a	.00000
Workmen's Compensation Act 1923	>= 2.00	122	.0410	.19907	.01802
	< 2.00	8	.0000	.00000	.00000
Prohibition of Employment as Manual	>= 2.00	122	.0000	.00000 ^a	.00000
	< 2.00	8	.0000	.00000 ^a	.00000
Payment of Wages Act 1936	>= 2.00	122	.0492	.21714	.01966
	< 2.00	8	.0000	.00000	.00000
Minimum Wages Act 1948	>= 2.00	122	.0656	.24856	.02250
	< 2.00	8	.0000	.00000	.00000
The Maternity Benefit Act, 1961	>= 2.00	122	.1148	.32004	.02897
	< 2.00	8	.0000	.00000	.00000
None	>= 2.00	122	.4672	.50098	.04536
	< 2.00	8	1.0000	.00000	.00000

a. t cannot be computed because the standard deviations of both groups are 0.

We had taken the cut off value as '2' where 1= uneducated, 2=class1 to 8 education and 3 was 9 and above. Since group means are not equal as N for >=2 is 122 and for <2 is 8 hence we see the significant values of Levene's Test for equality of variance in the table given below.

H0= variances of the 2 groups are equal

We can observe from the table 'Independent Sample Test' that there are 3 variables having significant value equal to 0.000 which are:

- None (which means that they are not familiar with any existing laws) as sig=0.000

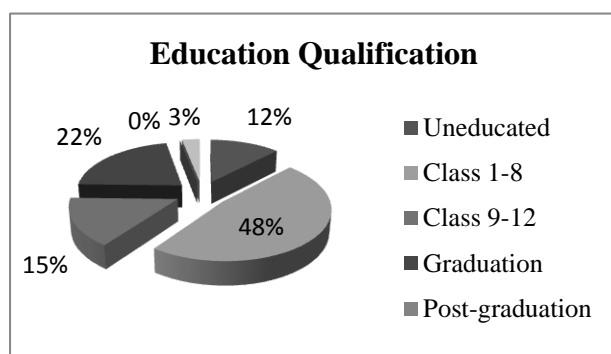
- Contract Labour Act 1970, as sig=0.000
- Industrial Employment Act 1946, as sig=0.000

As per the table given below the p-value (sig =.000) is less than 0.05 so we reject H₀ that is the variances of the 2 groups are not equal hence there a difference in answers for the 3 variables given above. So those respondents belonging to group 1 (uneducated or education till standard 8th) will be having less knowledge about the laws as compared to those who belong to group 2 (education of standard 9th and above).

Independent Samples Test									
		Levene's Test for Equality of Variances		t-test for Equality of Means					
		F	Sig.	t	df	Sig. (2-tailed)	Mean Difference	Std. Error Difference	95% Confidence Interval of the Difference Lower Upper
Industrial Employment (Standing Orders) Act 1946	Equal variances assumed	32.329	.000	1.745	128	.083	.27869	.15975	-.03741 .59478
	Equal variances not assumed			6.837	121.000	.000	.27869	.04076	.19799 .35938
Contract Labour (Regulation and Abolition) Act 1970	Equal variances assumed	122.390	.000	2.183	128	.031	.37705	.17268	.03537 .71873
	Equal variances not assumed			8.558	121.000	.000	.37705	.04406	.28982 .46428
Workmen's Compensation Act 1923	Equal variances assumed	1.469	.228	.580	128	.563	.04098	.07064	-.09879 .18075
	Equal variances not assumed			2.274	121.000	.025	.04098	.01802	.00530 .07666
Payment of Wages Act 1936	Equal variances assumed	1.812	.181	.638	128	.524	.04918	.07705	-.10327 .20163
	Equal variances not assumed			2.502	121.000	.014	.04918	.01966	.01026 .08810
Minimum Wages Act 1948	Equal variances assumed	2.557	.112	.743	128	.459	.06557	.08820	-.10894 .24009
	Equal variances not assumed			2.914	121.000	.004	.06557	.02250	.02102 .11012
The Maternity Benefit Act, 1961	Equal variances assumed	5.392	.022	1.010	128	.314	.11475	.11356	-.10995 .33946
	Equal variances not assumed			3.960	121.000	.000	.11475	.02897	.05739 .17212
None	Equal variances assumed	1824.000	.000	-2.997	128	.003	-.53279	.17777	-.88453 -.18104
	Equal variances not assumed			-11.747	121.000	.000	-.53279	.04536	-.62258 -.44299

On further exploring we found that since maximum people are having no knowledge of law.

Hence we will try to find the education background of the respondents.



questionnaire.

From the pie chart we can see 60% of the respondents belonged to Group 1 and were those who marked the option 'none' in their response in the Question 2, Part B of the

Regression Analysis

The table below shows a brief summary of the central tendency of belief the different information sources will helpful towards legal literacy. Also we can see that there are no missing values hence all the observations are complete.

Descriptive Statistics

	Mean	Std. Deviation	N
Legal literacy will be helpful to me	2.0538	.69674	130
Internet Apps, Social media campaigns	3.3231	1.24025	130
Awareness campaigns	2.1077	.63790	130
Worshops for Legal Literacy	2.4231	.66897	130
Print Media	2.7077	1.10282	130
Television	2.3923	1.08189	130
School education	2.2769	.72620	130

We use Linear Regression Analysis where Question3 is dependent variable (DV) and Question8 (a to f) are independent variables (IV). Here both the DV and IV are metric in nature measured on scale of 1 to 5.

ANOVA^a

Model		Sum of Squares	df	Mean Square	F	Sig.
1	Regression	21.220	6	3.537	10.507	.000 ^a
	Residual	41.403	123	.337		
	Total	62.623	129			

a. Predictors: (Constant), School education, Print Media, Worshops for Legal Literacy, Television, Awareness campaigns, Internet Apps, Social media campaigns

b. Dependent Variable: Legal literacy will be helpful to me

As per ANOVA table the p-value (sig =.000) is less than 0.05 so we reject H0 that is the considered Regression Model is significant. So the belief of respondents towards the helpfulness of legal literacy will be affected by the sources of information given in Question 8 on the overall purchase decision. Contribution of explained variation is 3.537. Contribution of unexplained variable is 0.337

Examining the significance of predictors from the table given below:

Coefficients ^a								
Model		Unstandardized Coefficients		Standardized Coefficients	t	Sig.	95% Confidence Interval for B	
		B	Std. Error	Beta			Lower Bound	Upper Bound
1	(Constant)	.592	.404		1.465	.146	-.208	1.392
	Internet Apps, Social media campaigns	.076	.092	.136	.828	.409	-.106	.259
	Awareness campaigns	.034	.147	.031	.230	.819	-.257	.324
	Workshops for Legal Literacy	.239	.198	.230	1.208	.229	-.153	.631
	Print Media	-.069	.071	-.109	-.964	.337	-.210	.073
	Television	-.068	.064	-.106	-1.060	.291	-.195	.059
	School education	.398	.113	.415	3.522	.001	.174	.622

a. Dependent Variable: Legal literacy will be helpful to me

Hence the significant predictors for the model are as per their hierarchy:

1. School Education (.451)
2. Workshops for Legal Literacy (.230)

Therefore it can be interpreted that the respondents believe that these two sources will be most helpful in gaining legal literacy for understanding the laws and benefitting from the same.

ROLE OF THE JUDICIARY

The supreme court has summarised the situation aptly saying that “Neither law-makers nor those entrusted with the duty of implementing laws enacted for welfare of unorganised workers have put in place appropriate mechanism for the protection of persons employed by or through contractors to whom services meant to benefit public at large are outsourced by State and/or its Agencies/Instrumentalities for doing workers, which are inherently hazardous and dangerous to life nor have they made provision for payment or reasonable, compensation in the event of death”.⁹

While dealing with the matter of child labour in *MC Mehta v. State of Tamil Nadu*¹⁰ the Supreme Court gave instruction to the Government to keep an eye on and prevent child labour in the ‘Sivakasi cracker manufacturing establishment’. In another case of the Minimum Wages Act, the Supreme Court directed that minimum wages to the labourers

⁹ *Delhi Jal Board v. National Campaign for Dignity and Rights of Sewerage and Allied Workers* (2011) 8 SCC 568

¹⁰ (1996) 6 SCC 756

employed by contractors must be waged directly and the provisions of Section 21 of Contract Labour (Regulation and Abolition) Act, 1970 should be observed.¹¹

In *P.M.Patel v. Union of India and others*,¹² the Supreme Court answered the question of whether the home workers are entitled to the benefits of Employees' Provident Funds and Miscellaneous Provisions Act, 1952. By explaining the definition clause in 2(f)¹³ of the act, the Court said that home workers are employees.

In the case of maternity benefit, the Supreme Court gave the decision that “*even female workers engaged on casual basis or on muster roll on daily wages are also entitled to benefit under the Maternity Benefit Act, 1961 as nothing in the Act confers the benefit only on regular women employees.*”¹⁴ The concern of Judiciary for safeguarding labourers rights and to enforce the socio-economic justice is well expressed in different cases relating to unorganised sector, few of which has been discussed above.

CONCLUSION AND SUGGESTIONS

The Authors feel that the problem lies in the awareness about the laws from the research which we conducted. Labourers/ workers/ employees, as found in the results, were not aware of the fact that such laws are there for their benefit and they were quite amused to know them. The matter in hand right now is to provide social security and revive dignity for the workers of the unorganised sector. The labourers/ workers are exploited in many ways because of the seasonal irregular work, irregular patters of earning and employment, absence of employer-employee relationship and weak administrative structure.

Practical experience gives us a picture that mostly people have no knowledge of their rights. The Labour Courts which are formed to provide speedy disposal of matters have failed to give speedy justice. It takes a lot of time to decide a case. If a case is decide in favour of labour, the execution of that decision is also very lengthy and time consuming which again

¹¹ *Salel Hydro Project v. State of Jammu & Kashmir*, 1983 LLJ 494

¹² (1986) 1 LLJ 88 (SC)

¹³ Section 2(f) of the Act are wide enough to include persons employed directly by the employer and also through a contractor and they also include persons employed in the factory and persons employed in connection with the work of the factory. The fact that the home workers deliver the beedis to the manufacturer who has a right of rejecting those that do not confirm to the standards clearly shows the degree of control and supervision for establishing the relationship of master and servant between the home workers and manufacturers. (part of the judgement)

¹⁴ *Municipal Corporation of Delhi v. Female Workers (Muster Roll)* 2000 (2) SC Almanac 269

takes a lot of time to implement Labour Court decision. Practically, the laws created for the purpose of labour have been unsuccessful in discharging most of the hopes for which they are created. They need a drastic change for fulfilment of hopes of Labourers. They should become the reason for the development of all sectors of society.

So to conclude it can be said that if the labour laws are properly implemented it shall make the labourers more secure towards their jobs and shall give strength to the unorganised sector. As per the survey conducted we can see that how the labourers wanted to be more educated about the laws which govern their daily work. The labourers wanted to be more educated about the laws and for that different public organisations, NGOs with the help of judiciary should come forward and support the unorganised sector in learning and implementing and taking support of the different laws which are there for their benefit. If different NGOs, advocates come forward to increase the awareness of such laws by conducting legal aid camps, Street plays etc., it can play a vital role to uplift this sector. With this hope, the author believes that the government won't any more just frame the law but also 'shape' the law for the benefit of the society.