

A Comparative Analysis of Social Security Legislation for the Unorganized Labor Sector in India and the USA

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Abstract

This comparative study examines social security laws for unorganized sector workers in India and the USA, analyzing India's legal framework, particularly the Unorganized Workers' Social Security Act, 2008, in contrast with U.S. laws such as the Self-Employment Contributions Act (SECA) and the Protecting the Right to Organize (PRO) Act. In India, the unorganized sector constitutes over 90% of the workforce but faces significant challenges such as low wages, lack of formal contracts, and inadequate social protections. The Unorganized Workers' Social Security Act, 2008 provides benefits like life insurance and pensions but suffers from poor implementation and low awareness. Conversely, the USA's gig economy and informal workers, though benefiting from some protections like SECA, also struggle with inconsistent access to employer-sponsored benefits, leaving many workers vulnerable.

The study highlights common issues such as enforcement gaps, misclassification, and the need for portable benefits across both countries. Drawing from international best practices, the research suggests policy reforms for India, including increased awareness campaigns, strengthened enforcement, and improved coordination between agencies to enhance social security for unorganized workers. The findings underscore the importance of evolving legal frameworks to ensure the economic security and well-being of informal sector workers in both nations.

Introduction

The unorganized sector, also known as the informal sector, encompasses a vast range of economic activities and enterprises that operate outside formal regulatory frameworks across the globe. Characterized by the absence of formal contracts, job security, and social benefits, this sector plays a crucial role in the economies of various countries.

In India, the unorganized sector is a significant component of the economy, employing over 90% of the total workforce, which translates to approximately 46.5 crore workers, as reported by the National Sample Survey Organization (NSSO). This workforce includes various categories such as agricultural laborers, street vendors, construction workers, and domestic helpers. According to the International Labour Organization (ILO), workers in this sector often face numerous challenges, including low wages, lack of formal contracts, and limited access to healthcare and pensions. The Unorganized Workers' Social Security Act, 2008 was introduced to provide benefits such as life insurance, health care, maternity benefits, and old-age pensions. However, coverage remains insufficient, with the ILO noting that many workers still lack access to basic social security protections.

In the USA, the unorganized sector includes significant groups such as gig economy workers, freelancers, self-employed individuals, and temporary laborers. The rise of the gig economy has drawn attention to the growing number of workers operating outside traditional employment frameworks. These workers typically lack access to employer-sponsored benefits, such as health insurance, retirement plans, and unemployment benefits. The ILO has raised concerns regarding the vulnerability of gig workers, emphasizing that while they contribute to economic growth, they often do not enjoy the same legal protections as those in formal employment.

Social Security: Concept, Development, and Definition

The concept of social security varies across countries but is broadly understood as the set of policies and programs designed to protect individuals from economic risks such as illness, unemployment, and old age. The ILO defines social security as a fundamental human right, encompassing the right to health care, income security, and support in the case of contingencies like disability, maternity, and unemployment.

In India, the development of social security for unorganized workers has been slow but is gradually

progressing through programs such as the Pradhan Mantri Shram Yogi Maan-Dhan (PM-SYM) pension scheme. In the USA, social security is primarily structured around formal employment, leaving many unorganized workers without adequate coverage.

Importance of Legal Framework for Social Security

Establishing a legal framework for social security is crucial to ensuring that workers, particularly those in the unorganized sector, have access to essential protections. According to the ILO, a strong legal framework helps provide workers with minimum wage protections, health benefits, unemployment insurance, and retirement pensions. In India, the Unorganized Workers' Social Security Act, 2008 serves as a foundational legal document aimed at improving the social security landscape. However, its effectiveness is limited by low awareness and poor implementation. In the USA, although social security systems exist, they are largely geared towards formal employment, with informal workers often falling through the cracks.

Objective

The primary objective of this study is to conduct a comparative analysis of the social security provisions for unorganized sector workers in India, and to assess India's legal framework against the United States (USA). The study aims to examine the strengths and weaknesses of India's Unorganized Workers' Social Security Act, 2008 by comparing it with social security frameworks in a developed nation (USA). The analysis will focus on understanding how these countries address the needs of workers in the informal sector, identifying gaps in the Indian system, and drawing insights from international best practices to suggest improvements for India's social security mechanisms.

Methodology

The methodology of the study consists of a comprehensive review of academic papers, government reports, and publications of international organizations such as the International Labour Organization (ILO). These sources would be scrutinized to develop a fundamental understanding of the social security frameworks for unorganized sector workers in India, and the USA.

For India, the focus will be on the Unorganized Workers' Social Security Act, 2008, and other relevant legislation like the Social Security Code, 2020. Legal analysis will be conducted in order to assess the scope, coverage, and mechanisms of implementation of these laws and identify gaps in social security coverage for unorganized workers.

The study, therefore, will examine the Social Security Act, 1935, USA, and how laws extend protection to workers of the informal economy. Its methodology includes comparative analysis focusing on the effectiveness of measures of social security in countries under study, with resort to official data from National sources, such as that of the National Sample Survey Organization (NSSO), India, and the Bureau of Labor Statistics (BLS), USA.

The research will conclude with policy recommendations for improving the social security framework of India, based on the

lessons learned from the comparative analysis of the USA. These recommendations will focus on specific needs of unorganized workers in India while considering socio-economic context and feasibility for implementing reforms.

India

The unorganized sector in India is a dominant segment of the workforce and economy, employing over 90% of the country's total workforce. As per the National Sample Survey Organization (NSSO), this translates to approximately 46.5 crore workers, encompassing a variety of employment types such as agricultural laborers, street vendors, construction workers, and domestic helpers. The International Labour Organization (ILO) notes that this segment, despite its substantial size, operates under severe disadvantages due to low wages, lack of formal contracts, and limited access to healthcare and pensions. The significance of this sector cannot be understated as it represents the backbone of India's labor market, yet it remains grossly under-protected by the formal social security framework.

History of the Unorganized Sector in India

Historically, India's unorganized sector has grown alongside the country's industrial and agricultural development. The rural sector, which constitutes a large portion of the unorganized labor, has been predominantly characterized by subsistence farming and informal trading. With urbanization, this sector expanded to include casual labor in construction, domestic work, and small-scale manufacturing. Economic reforms in the 1990s brought about structural shifts in employment, pushing more workers into informal and precarious jobs without adequate social protection. The National Commission for Enterprises in the Unorganized Sector (NCEUS), in its 2007 report, highlighted the vulnerability of unorganized workers, particularly in terms of income security and occupational hazards.

Key Legislation Affecting the Unorganized Sector

Several laws have been enacted to address the needs of the unorganized labor force in India, with varying degrees of success. The most significant among these include:

- The Unorganized Workers' Social Security Act, 2008: This Act was intended to provide social security to workers in the unorganized sector by offering benefits such as life insurance, health care, maternity benefits, and old-age pensions. The Act defines an "unorganized worker" as a home-based worker, self-employed worker, or a wage worker in the unorganized sector. Despite its broad mandate, the Act has been criticized for its inadequate implementation and low awareness among workers, with many remaining unaware of their entitlements.
- The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996: This Act seeks to regulate the employment and conditions of service for construction workers, one of the largest segments of the unorganized workforce. It mandates the formation of welfare boards at the state level to provide social security measures such as pensions, accident insurance, and loans for housing. However, enforcement remains weak, with many workers outside the ambit of registration.
- The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014: This legislation aims

to protect the livelihoods of street vendors by providing them with rights to public spaces for vending and mandating the formation of town vending committees for their regulation. Though it recognizes street vending as a legitimate economic activity, implementation challenges, such as the lack of coordination between municipal authorities and vendors, persist.

- The Minimum Wages Act, 1948: This Act applies to all sectors, including unorganized workers, and aims to ensure that workers receive a minimum wage that is sufficient to maintain a basic standard of living. However, due to lack of enforcement and limited awareness among workers, the effectiveness of this Act in protecting the wages of unorganized workers has been limited.

Impact of Legislation on Unorganized Workers

The impact of these legislations has been mixed. While they provide a framework for improving the working conditions and social security of unorganized workers, the lack of effective implementation and enforcement mechanisms has left many workers without access to the benefits they are entitled to. For instance, under the Unorganized Workers' Social Security Act, only a fraction of the workforce is covered, and even those who are registered often do not receive the full range of benefits. Similarly, the Minimum Wages Act has not been successful in bridging the wage gap for unorganized workers due to poor monitoring and the prevalence of informal wage arrangements.

Despite these challenges, some positive strides have been made. The Street Vendors Act, for instance, has empowered vendors to fight for their rights to public spaces, although much remains to be done in terms of ensuring compliance by local authorities. Likewise, the Building and Other Construction Workers Act has led to the formation of welfare boards in several states, though their reach and effectiveness vary widely.

The unorganized sector in India continues to play a pivotal role in the economy, but the existing legal framework, though well-intentioned, falls short of providing the necessary protection to the vast majority of workers in this sector. Improving enforcement, raising awareness among workers, and ensuring the full implementation of social security schemes are crucial steps toward securing the livelihoods of unorganized workers. As the informal economy expands, it is essential that policies evolve to provide adequate social protection and fair working conditions for this critical workforce.

USA

The informal sector in the United States includes a significant number of workers, such as gig economy participants, freelancers, and temporary laborers. As of 2021, approximately 15.8 million workers were represented by a union, leading to an overall unionization rate of 11.6%. Within this, the private sector recorded a unionization rate of 7.0%, while the public sector stood at 37.6%. Among racial groups, 12.9% of Black workers, 11.6% of white workers, 10.3% of Latinx workers, and 9.0% of Asian American/Pacific Islander workers were unionized.

Informal workers frequently contend with inconsistent income, which complicates their ability to make regular contributions to social security. The Self-Employment Contributions Act

(SECA) requires self-employed individuals to pay both the employer's and employee's portions of Social Security and Medicare taxes, which amounts to 15.3% of their net earnings. However, many informal workers are unaware of their obligations or struggle to maintain consistent contributions due to fluctuating earnings.

These workers often lack access to employer-sponsored benefits such as health insurance, retirement plans, and unemployment benefits. The International Labour Organization (ILO) has highlighted the vulnerability of gig workers, noting that, while they contribute to economic growth, they often do not enjoy the same legal protections as those in formal employment. Legislative efforts like the Protecting the Right to Organize (PRO) Act seek to strengthen the rights of informal workers, allowing them to advocate for better working conditions and social security protections. Additionally, proposals for portable benefits aim to ensure that workers can carry their benefits from job to job, providing continuous coverage regardless of employment status.

Key Laws Impacting Unorganized Workers

- Self-Employment Contributions Act (SECA): This law allows self-employed individuals to contribute to Social Security and Medicare, ensuring they can access benefits like retirement and disability. However, many informal workers struggle to make consistent contributions due to income variability.
- Employee Retirement Income Security Act (ERISA): Enacted in 1974, ERISA governs employer-sponsored retirement plans but primarily benefits traditional employees, leaving informal workers without similar protections.
- Protecting the Right to Organize (PRO) Act: Proposed in 2021, the PRO Act aims to strengthen workers' rights to unionize and collectively bargain, reducing barriers for informal workers to gain representation.
- National Labor Relations Act (NLRA): This act protects employees' rights to organize but excludes many informal workers, leaving them without legal recourse in disputes.
- Portable Benefits Proposals: These proposals aim to create systems that allow workers to carry benefits from job to job, addressing gaps in traditional employment-based benefit structures.

Impact

The informal labor sector significantly impacts the U.S. economy, contributing to various industries while lacking adequate social protections. Informal workers often face low wages, job insecurity, and limited access to essential benefits like health insurance and retirement plans. The absence of comprehensive social security coverage leaves many vulnerable during economic downturns. Additionally, declining union representation exacerbates income inequality, limiting informal workers' bargaining power and access to fair wages and benefits. Without systemic reforms, these challenges are likely to persist, affecting economic stability and worker well-being.

Comparison of with Indian laws, and what can be done better in India

India's unorganized sector, which employs over 90% of its workforce, suffers from inadequate social security protections.

The Unorganized Workers' Social Security Act, 2008, aims to provide benefits such as life insurance and pensions, but its effectiveness is hampered by low awareness and poor implementation. In contrast, the USA's informal sector includes about 15.8 million workers, who can access protections through laws like the Self-Employment Contributions Act (SECA) and the Protecting the Right to Organize (PRO) Act. Despite these laws, gig workers still face significant vulnerabilities due to misclassification and limited access to employer-sponsored benefits. Both countries share challenges of enforcement and coverage gaps, highlighting the urgent need for reforms to improve social security for unorganized workers.

To enhance the social security framework for unorganized workers in India, several strategic measures should be implemented. First, comprehensive awareness campaigns are essential to educate workers about their rights and entitlements under existing laws, particularly the Unorganized Workers' Social Security Act, 2008. Many eligible workers remain uninformed about their benefits, which undermines the law's effectiveness. Second, enforcement mechanisms must be strengthened. This includes conducting regular audits and inspections to ensure compliance with regulations and providing a dedicated grievance redressal system for workers to report violations effectively.

Additionally, adopting portable benefits systems would allow workers to carry their entitlements from job to job, which is especially relevant in a transient gig economy. Expanding the definition of eligible workers to encompass a broader range of informal employment types would ensure more individuals receive necessary protections. Finally, developing policies that encourage greater coordination between different government agencies responsible for implementing these laws can streamline processes and improve access to social security benefits. By addressing these areas, India can create a more inclusive and effective social security system for its unorganized workforce, thereby enhancing their livelihoods and overall economic security.

Conclusion

The social security frameworks for unorganized workers in India and the USA reveal significant disparities and challenges. While both countries aim to protect vulnerable workers, India's efforts are hindered by low awareness and weak implementation of existing laws, such as the Unorganized Workers' Social Security Act, 2008. In contrast, the USA has established laws like the Self-Employment Contributions Act (SECA) and the Protecting the Right to Organize (PRO) Act, but still faces issues related to misclassification and access to benefits for gig workers. Both nations need comprehensive reforms to enhance coverage, improve enforcement, and ensure that unorganized workers receive adequate social protection, thereby promoting greater economic security and well-being for this critical workforce.

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