

Workers should be invited to attend different forums in the organization to raise their concerns and they must be addressed. The Government should conduct regular audits to ensure workers are given opportunity to

participate in organization's forums as many company's do not adhere to such policies of Government. Workers should be given opportunity to represent their organizations in industry summits.

SOCIAL SECURITY MEASURES FOR UNORGANIZED WORKERS IN INDIA: A CRITICAL STUDY

By

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Abstract :

From time immemorial countries have been attempting in various ways to shield people against social and economic distress. These efforts gave rise to urgent needs for subsistence and to provide against adversities. The workers are broadly classified as organized and unorganized. The major chunk of the work force comprises of unorganized sector and only about 7% constitutes the organized sector. Several factors such as insecurity of employment, low wages, non-accessibility to social security measures and various disability insecurities influence them drastically which serves as an impediment for their consistent growth. The present article aims to discuss the various initiatives taken by the Governments at both Central and State levels to provide security to this sector. It also traces the origin of social security measures by focusing on the initiatives taken by the Legislature in enacting several laws. In this backdrop it throws light on various schemes and welfare funds provided by the Governments to the unorganized sector. An attempt has also been made to dwell upon the Constitutional provisions and International Labour Organization Provisions for this sector.

Introduction:

The concept of social security for workers over time has gained noticeable importance in the industrially potential country like India, to provide financial security during unforeseen situations faced by them like Job hazards, Post-Retirement Health issues, Emergency *etc.*

In the current scenario the topic became prevalent as it protects the interests of nearly 45 million labour workers and assures them benefits. The concept of social security has been transformed from charity-based to rights-based approach¹.

The advent of the theory of social security ways back to the era of Civil War but it was given impetus only in 1935. During the Civil War various forms of social security measures were created to give benefits to widows and orphans. Pension which was equal to the deceased soldier's salary was granted to the widows of deceased soldier. Later, in 1890 the measures were extended to even disabled soldiers. By 1910, nearly

1. See "Social Security of Unorganised Workers in India" by Faisal Fasih

90% of the veterans were qualified to enjoy the benefits of the concept. It was introduced in Europe in the late 19th century to provide both socio and economic security. Then after the Second World War most of the countries started implementing them. These programmes mainly aimed at improving the well-being of the poor and in reducing the social inequalities among the people in the society. In turn this aimed at avoiding the social and political conflicts in industrialized countries.

Developed countries which provide social security to its citizens protects them not only at the instance of war and disease but also from other insecurities like unemployment, illness, injury, old age, retirement, resignation, retrenchment, maternity, invalidity, family responsibilities such as pregnancy, child care and loss of the family bread winner. They not only aim to provide protection to workers against all emergencies, augment the productivity, contributes to the dignity but also full realization of the individual. It also promotes gender equality and maintains a stable workforce adaptable to change. It serves as a basic component of social cohesion by providing safety in case of economic crisis, ensuring social peace, globalization and economic development.

International Labour Organization (ILO) defined the concept of social security as “the protection which society provides for its members through a series of public measures against the economic and social distress that otherwise would be caused by the stoppage or substantial reduction of earnings resulting from sickness, maternity, employment injury, invalidity and death; the provision of medical care; and the provision of subsidies for families with children²” (ILO 1984)

2. See “Social Security in Developing Countries : Myth or Necessity ? Evidence from India” by Patricia Justino

Social Security Measures for Unorganised Workers in India

First National Commission on Labour defined unorganized workers as 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.

The Unorganized Workers Social Security Act, 2008 defines “unorganized worker” 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 to this Act.

The Ministry of Labour classified the unorganized labour force into four categories depending on their occupation, nature of employment, especially distressed categories and service categories.

1. *In terms of occupation:* It included small and marginal farmers, landless agricultural labourers, share croppers, fishermen and those engaged in animal husbandry, beedi rolling, labeling and packing, building and construction workers, leather workers, weavers, artisans, salt workers, workers in brick kilns and stone quarries, workers in saw and, oil mills.
2. *Nature of Employment:* They are categorized as agricultural, migrant, contract and casual labourers.
3. *Especially Distressed Category:* Toddy tappers, scavengers, carriers of head loads, drivers of animal driven vehicles, loaders and unloaders,
4. *Service category:* While midwives, domestic workers, fishermen and women, barbers, vegetable and fruit vendors, newspaper vendors *etc.*, come under the.

In addition to the above categories, there exists a large section of unorganized labour force such as cobblers, hamalis, handicraft artisans, handloom weavers, lady tailors, physically handicapped self-employed persons, rickshaw pullers/auto drivers, sericulture workers, carpenters, leather and tannery workers, power loom workers and urban poor. The Ministry of Labour also considered that all workers in the organized sector who are not covered under the social security laws are also considered as part of the unorganized sector.

The definition of “unorganized worker” given under the 2008 Act appears to have excluded vast sections of unorganized workers like agricultural labourers, the unorganized labourers in the organized sector including contract labourers and the informal labourers in the formal sector, the anganwadi workers, para workers like ASHAs and para teachers, and those in the cooperative sector. The Act neither brought agricultural labourers under the purview of the Act nor separate bill been suggested for them.

Characteristics of Unorganized Workers:

1. They are prone to excessive exploitation by the employer
2. Their nature of employment is seasonal
3. They lack stable and durable avenues of employment
4. They have scattered and fragmented workplace
5. There is no formal employer and employee relationship
6. Primitive and feudal production technologies do not encourage workmen to imbibe and assimilate higher technologies.
7. Illiteracy and limited exposure to outside world are impediments for them in adopting new techniques of production.

8. They lack protection of trade union.

According to National Commission for Enterprises in the Unorganized Sector (NCEUS) 93% of the Indian population constitutes of unorganized sector. Lack of access to social security benefits especially to the unorganized sector has been the major factor which played a large role in the intensification of the vulnerability experience among these workers. In order to mitigate their plight, there has been an emerging concern about them³. In spite of several recommendations the Governments at both Central and State levels did not take initiative until 2005⁴. The United Progressive Alliance Government in 2005 enacted National Rural Employment Guarantee Act, 2005 (NREGA) whose objective was to provide guarantee employment to the rural households. The Central Government again in 2008 made a contribution to this sector by enacting an umbrella legislation called Unorganized Workers Social Security Act, 2008. The Act not only provided social security but also brought several workers under its definition of unorganized worker. Besides these Central-level initiatives, some States have already made efforts to provide social security to unorganized workers through the enactment of various Acts, creation of welfare funds and the initiation of social security schemes⁵.

The terms like informal sector, informal economy and informal labour are used interchangeably to signify unorganized worker/sector/labourer. Normally these labourers are not governed by either State or by any agreements between the employer and workers. India would be in the forefront to take care of the social security need of not only of the employee but also of the dependents of beneficiaries. India enacted various legislations for

3. <http://nceus.gov.in>

4. www.India.gov.in

5. See www.indialabourarchives.org/publication

providing social security measures at the contingencies of retirement, sickness, death and other disabilities. With increasing migration, urbanization and demographic changes there has been a decrease in large family units.

India exemplifies the existence of unorganized workers at a high rate. The unorganized sector makes a significant contribution to the national wealth; yet, workers in this sector do not have access to sufficient and reliable social security. Even though they are covered under the Employee State Insurance Act 1948, Maternity Benefit Act 1961, Workmen's Compensation Act 1923, Minimum Wages Act, 1948, Factories Act, 1948 and Equal Remuneration Act, 1976 their working conditions could not improve and they were not much benefited.

The Ministry of Labour and Employment, Director General of Employment and Training, and Government of India conducted Economic Surveys and found out the extent of workforce in organized and unorganized sectors in India. In 1983 the share of organized workforce was about 8%, it declined to 7.54% by 2004 and 2005, similarly the unorganized workforce was about 92.07% by 1983 and it increased to 92.46% by 2004-2005⁶.

Legislative Protection:

Apart from general legislations such as Minimum Wages Act, 1948, Workmen's Compensation Act, 1923, Maternity Benefit Act, 1961, The ESI Act, 1948, Bonded Labour System (Abolition) Act, 1970, Inter State Migrant Workmen (Regulation of Employment and Condition of Service) Act, 1979, the Government have taken various initiatives through enactment of certain special laws, and by creating welfare funds and schemes which specifically protect unorganized sector.

6. Ministry of Labour and Employment Director General of Employment and training, Government of India and Economic Survey.

Social Security Legislations protecting unorganized Sector: Legislations which are specifically applicable to unorganized sector are:

1. Contract Labour (Regulation & Abolition) Act, 1970 – The Act is applicable to every establishment where twenty or more workmen are employed and it aims to regulate the employment of the contract labour in every establishment.
2. Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979-This Act attempts to provide employment to inter-State migrant workmen and provides for their conditions of service.
3. Cine-workers Welfare Fund Act, 1981- The Act aims to provide finance to promote the welfare of the cine-workers.
4. Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Fund Act, 1976 - It provides for the financing of activities to promote the welfare of the persons employed in the iron ore mines, manganese ore mines and chrome ore mines.
5. Limestone and Dolomite Mines Labour Welfare Fund Act, 1972- the Act provides for the levy and collection of cess on limestone and dolomite for the financing of activities for promoting the welfare of the persons employed in limestone and Dolomite mines.
6. Mica Mines Labour Welfare Fund Act, 1946 - The Act provides for a fund for financing the activities of workers employed in the mica mining industry and promotes the welfare of labour.
7. Beedi Workers Welfare Fund Act, 1976⁷ - An Act to provide for the financing

7. It is implemented in most of the States

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, 1996⁸ : The Act regulates the employment and conditions 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. National Rural Employment Guarantee Act, (NREGA), 2005: The present Act is a recent major initiative in promoting security. The Act follows in line with the Common Minimum Programme of the Government. It is a right based programme - the State is obliged to provide employment on demand or compensation. The Act guarantees employment upto 100 days to all rural households, on demand.
10. Right to information Act: The Act enables the Government to provide information on demand and every citizen has right to get information. The Act plays a major role in improving efficiency of welfare programmes. Right to Information Act is a useful tool to ensure proper implementation of social security measures and schemes such as NREGA.
11. Unorganized Workers Social Security Act, 2008: This Act is a recent initiative of Indian Government for providing social security to unorganized workers through various schemes and welfare funds. The schemes are framed by

both the Central and State Governments. Every State constitutes a Board as well as funds are provided by the State Government to achieve the objective of the Act. The Act empowers the State as well as Central Governments to frame rules. All unorganized workers above 14 yrs are entitled to register themselves and receive a "smart identity card". The Act also provides for the establishment of Workers Facilitation Centers for providing the information to workers.

Welfare Schemes applicable to Unorganized Workers: The Government of India has formulated certain welfare schemes and most of them are applicable to workers below poverty line (BPL) and they are meant to specific categories like handloom weavers, artisans, fisheries, *etc.* The welfare schemes which are applicable to this sector are:

1. Indira Gandhi National Old Age Pension Scheme - People above the age of 65 yrs belonging to BPL category is eligible for this scheme. Central Government contributes Rs.200/- and State Government also contributes varying amounts.
2. National Family Benefit Scheme: The scheme provides for Rs.10,000/- to the BPL unorganized workers family at the instance of death of the breadwinner of the family.
3. Janani Suraksha Yojana: As per this fully centrally sponsored scheme, the States are categorized into Low Performing States (LPS) and High Performing States (HPS) depending on the proportion of institutional deliveries in the State. In case of the 10 LPS (Assam, Bihar, Chattisgarh, Jammu and Kashmir, Jharkhand, Madhya Pradesh, Orissa, Rajasthan, Uttar Pradesh and Uttarakhand) all women delivering in Government Health Centres/accredited

8. It is implemented in the States of Kerala, T.N., Karnataka, A.P., Pondicherry, Haryana, Punjab, West Bengal, Tripura, Assam, M.P. and Maharashtra

private institutions are paid Rs.1400/- in rural areas and Rs.1000/- in urban areas. In case of HPS, all women delivering in Government Health Centres/accredited private institutions are paid Rs.700/- in rural areas and Rs.600/- in urban areas. All BPL women above 19 years, delivering at home, both in LPS as well as in HPS, are entitled to cash assistance of Rs.500/- per delivery upto 2 live births⁹.

4. Janashree Bhima Yojana- The present scheme is implemented by LIC wherein 50% of the annual premium of Rs.200/- is paid by the Central Government and the other 50% is paid either by the beneficiary, nodal agency or the State Government. Under this scheme, Rs.30,000/- is paid on natural death of the beneficiary and 75,000/- on accidental death, 75,000/- on total permanent disability and Rs.37,500/- on partial permanent disability.
5. Aam Admi Bhima Yojana: This scheme is applicable only to landless unorganized workers in rural areas in the age group of '8-59 yrs and it provides the same benefits similar to that of Janashree Bhima Yojana which is implemented by LIC.
6. Rashtriya Bhima Yojana: The scheme provides for cashless health insurance cover of Rs.30,000/- per annum on a family floater basis.
7. National Social Assistance Programme: Provides opportunities for linking social assistance package to schemes for poverty alleviation and provision of basic minimum services¹⁰.

8. Swaran Jayanti Gram Swarozgar Yojana: It is a poverty eradication programme by Government of India to provide self-employment through small industries.

In order to provide social security to such workers, Government has introduced Labour Welfare Fund to ensure assistance to unorganized labours. Five different welfare funds, which are governed by different legislations, are administered by Ministry of Labour. The purpose of these welfare funds is to provide housing, medical care, educational and recreational facilities to workers employed in beedi industry and non-coal mines and cine workers.

Welfare Funds: For providing social security to unorganised workers the Government has also introduced certain Welfare Funds. The main objective of the welfare funds is to provide housing, medical care, educational and recreational facilities to workers employed in unorganised sector. The legislations which govern the welfare funds for unorganised workers are:

1. The Mica Mines Labour Welfare Fund Act, 1946
2. The Limestone and Dolomite Mines Labour Welfare Fund Act, 1972
3. The Iron Ore, Manganese Ore and Chrome Ore Mines Labour Fund Act, 1976
4. The Cine Workers Welfare Fund Act, 1981.

ILO Provisions: The International Labour Organization (ILO) in its Convention No.102, views the concept of social security as protective to unorganized workers and enumerates certain risks from which unorganized workers are to be protected. The sector if not protected from these risks results in substantial reduction of earnings.

9. <http://indiacurrentaffairs.org/unorganised-workers%E2%80%99-social-security-act-k-hemalata/>

10. See Planning Commission Reports on Labour and Employment in the 10th Plan. (2002-2007)

The risks are: Sickness¹¹, Maternity¹², Employment injury¹³, Unemployment¹⁴, Invalidity¹⁵, Old Age¹⁶, Death¹⁷, Need for long term medical care¹⁸ and Need to support families with children¹⁹. The main

objective of the ILO Convention No.102 is to guarantee certain defined benefits, participation of employers, workers in the working of the scheme, responsibility of the State for provision of the benefits, administration of the institutions and finally financing of the benefits by way of insurance contribution or taxation. But the Convention did not specify the exact machinery through which these objectives could be achieved but gave flexibility to the member states to adopt either social insurance schemes or social assistance schemes to achieve these objects. It lays down that the social security schemes shall be administered on a tripartite basis between the Government, employers and workers.

Conclusion: Even though India stood at the forefront to provide security to unorganized sector in various contingencies by enacting various laws by providing welfare schemes and funds but it could not achieve its objective. This is merely because of the ambiguity in the existing policies and due to lack of proper implementation machinery. Firstly, the recent enactment- Unorganized Workers Social Security Act, 2008 needs to be amended as it is incomplete such as the definition of the term 'unorganized worker' did not include few categories of workers. Secondly it is flawed as it lacks proper implementation machinery due to which the officers under the Act do not have Executive powers to take on the labour contractors. Finally the Act did not propose penalties for violation, grievance redressal mechanisms and employment benefits. Hence majority of the labour contractors took advantage of the loop holes of the Act to exploit the workers for monetary gains. As unorganized sector has a crucial role to play in the Indian economy, much care has to be taken to protect their interests and safeguard them from vested interests. Hence the need of the hour is amendment of certain laws, proper execution of the Act, empowerment of the execution bodies to impose penalties and introduction of schemes like PF, retirement benefits for those who come under this sector which has become imperative.

11. See The Medical Care and Sickness Benefits Convention, 1969 (No.130)
12. See The Maternity Protection Convention, 1919 (No.3)
13. The term "Employment Injury" is used in the Social Security (Minimum Standards) Convention, 1952 (No.102)
14. Only involuntary unemployment is covered by social security
15. From the review of various national laws, ILO recognizes three concepts of invalidity as a social security contingency namely; 1) Physical Invalidity – This means the total or partial loss of any part of the body, or of any physical or mental faculty, irrespective of the economic or occupational consequences of that loss. 2) Occupational Invalidity – This means the loss of earning capacity resulting from the inability to follow the occupation previously exercised by the person concerned. 3) General Invalidity – This means the loss of earning capacity resulting from the inability to take up any of the possibilities open to the person concerned in the general labour market, even those which might involve a change in occupation and possibly some sacrifice of professional or social status.
16. The most useful old-age benefit in social security terms is a life pension
17. A single-payment lump-sum benefit to assist in meeting the cost of burial and associated expenses on the death of an insured person.
18. Convention No.102 establishes that medical care benefit is provided to maintain, restore or improve the health of the persons protected and their ability to work and to attend to their personal needs. The minimum content of the benefit covers general practitioner care, including home visits; specialists care in hospitals and similar institutions for in-patients and out-patients and such specialist care as may be available outside hospitals; essential pharmaceutical Supplies; pre-natal confinement and post-natal care by medical practitioners or qualified midwives; and hospitalisation where necessary. To this the Medical Care and Sickness Benefits Convention, 1969 (No.130), adds dental care and medical rehabilitation including necessary appliances.
19. The 1st ILO instrument to deal directly with family benefit was the Income Security Recommendation, 1944 (No.67). In 1952, the Recommendation was codified in the Social Security (Minimum Standards) Convention (No.102), which simply states "responsibility for the maintenance of children".

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