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# Labour Law and Social Protection for Informal Sector Workers

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ASTITVA VATSA<sup>1</sup> AND DEBDEEP BANERJEE<sup>2</sup>

## ABSTRACT

*The informal sector is a significant and expanding component of many economies across the world. However, compared to their counterparts in the formal sector, workers in the informal sector frequently do not have the same legal protections and social benefits. As a result, they may be more susceptible to exploitation, unstable income, and limited access to basic necessities like healthcare and education. These issues can be addressed and the wellbeing of workers in the informal sector promoted with the help of labour laws and social protection measures. These regulations can increase social security benefits, enhance working conditions, and give people access to chances for training and education. Numerous obstacles must be overcome in order to strengthen labour laws and provide social protection for workers in the unorganised sector, including a lack of political will, insufficient funding, and difficulty locating and contacting them. Nevertheless, effective interventions can result in better livelihoods and a reduction in inequality and poverty, making these laws an important tool for promoting inclusive and sustainable development.*

**Keywords:** *Informal Sector, Legal Protections, Social Protection, Poverty, Security Benefits.*

## I. INTRODUCTION

Unorganized workers are those employed in the informal sector of the economy who are not covered by legal or social security provisions. They work in various fields such as agriculture, construction, domestic work, and street vendors.<sup>3</sup> These workers often lack access to basic facilities such as job security, social protection, health care, education and housing. Due to their vulnerable position, they may also face exploitation and discrimination. In many countries, especially developing ones, unorganized workers make up a significant proportion of the workforce. National Commission also gives some categories of workers which can be categorised as unorganised workers such as contract-based worker (it also includes workers engaged in the construction work), labour engaged in small industry, informal (casual) labour,

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<sup>1</sup> Author is a student at KIIT School of Law, India.

<sup>2</sup> Author is a student at KIIT School of Law, India.

<sup>3</sup> Aditi Yajnik et al., *Securing rights for domestic workers*, idr (July 28, 2021), <https://idronline.org/article/rights/securing-economic-and-social-rights-for-domestic-workers/>

handloom/power worm workers, employed in shops and commercial establishments, sweepers and scavengers, workers in teaberries, tribal labour, beedi and cigar workers other unprotected labour.<sup>4</sup> Apart from the above categories, there are artisans, crafts men, shoemakers, hand weavers, handicapped self-employed, dressmakers, rickshaw pullers, carpenters, tanners, weavers, the urban poor, truck and car owners. Drivers and others are also included in the scope of unorganized workers.

## II. ISSUES AND CHALLENGES FACED BY UNORGANISED WORKERS

Since they form a part of the economically weaker section of the society, such workers face multiple challenges and issues namely:

- Low Wages – Wages are only a factor that a person/employer works for. Because the workers get very little wages. There is a minimum wage law, so it defines the minimum wage that must be paid to the employee, but the employee does not receive the minimum wage. The Supreme Court of India has ruled that hiring workers at wages below the legal minimum wage is considered forced labour, and violates Article 23 of the Indian Constitution.
- Occupational injuries and lack of knowledge about occupational safety - Working conditions in unorganized sectors are a major cause of adverse health conditions of workers. When it comes to telecommuters, most studies report workers suffering from health problems. Health problems are mainly related to the respiratory system and are due to inhalation of tobacco dust, body aches, or certain postures that must be maintained at all times while working. Unmanned machinery, various toxic chemical coals, powdered lime, dust fires and raw materials for synthetic production lead to the deaths of many disorganized workers due to harsher working conditions and little knowledge of occupational health and safety.
- Most workers live in poor conditions. They live in unsanitary conditions and suffer from sewer infiltration, overflowing drainage systems, floods and storms. They live in slums. Facilities such as washrooms, urinals and toilets at work are below average. It can be said that there were no such facilities available to industrial workers.
- Long working hours: Long working hours in the unorganized sector exceed labour and regulatory standards and are the norm in India. There are no fixed working hours in

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<sup>4</sup> Richa Goel, *Protection of the Rights of Unorganised Sector*, iPleaders (June 9, 2019), <https://blog.ipleaders.in/unorganised-sector-rights-protection/>

agriculture, as there are no laws governing the working conditions of agricultural workers.

- In non-agricultural sectors such as firecrackers, matchmaking and electric looms, workers started work as early as 6am and continued until evening. The hand-weaving sector is organized so that wages are based on 12 to 15 hours of work per day. Many workers and workers are illiterate and as a result, employers exploit workers by forcing them to work overtime. Long working hours, social isolation of migrant workers, high unemployment, illiteracy and lack of awareness are the biggest hurdles to self-organization.
- Lack of trade unions or knowledge of trade unions: Not many, but most people are unaware of the existence of trade unions and their rules. The main purpose of forming a union is to resolve disputes that may arise between employers and employees. Union means a union registered for the time being pursuant to the Unions Act 1926.
- High levels of insecurity are common, such as social security funds that provide convenience and safety to workers. For example, employment in the agricultural sector is irregular and precarious. This is because there are only about three months of work available for them, and most of his remaining nine months are unemployed and starving.
- Seasonal Labor - Workers are hired as seasonal workers. They are employed only seasons and remain unemployed for the rest of the year. The employment period is only 3-4 months.<sup>5</sup> In India, Mahatma Gandhi's National Rural Workers Employment Security Act of 2005 aims to provide job security by guaranteeing at least 100 working days in the least developed areas of the country where manual labour is possible.
- Is intended for Women and children are vulnerable and receive meagre wages. Article 39(d) of the Indian Constitution talks about equal pay for equal work. This means that everyone, regardless of age or gender, should be paid the same if they work the same hours. Children are forced to work in hotels in Dhaba for low wages. Children and women are paid less than men are, even though they work the same hours. Children and workers work as domestic helpers in urban households. Such child labourers are exposed to long hours of work and are employed in hazardous sectors such as carpet weaving, textile printing, explosives and fireworks, cigarette manufacturing, and

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<sup>5</sup> Divyanshi, *Protection of Rights of Unorganised Labourers in India*, Legal Service India E-Journal, <https://legalserviceindia.com/legal/article-8224-protection-of-rights-of-unorganised-labourers-in-india.html>

printing and soldering in the electronics industry.

- Female workplace harassment- Sexual harassment is a big problem in the workplace. Safe work is a legal right for women that has been neglected. I am still suffering from various physical and mental ailments from last night's teasing and sexual harassment. Despite legislation passed in 2013, women are still being attacked in the workplace.
- Vulnerable Labor Groups: - The 1st National Labor Commission and 2nd National Commission Study Group on Construction (2002) found that quarries, brick kilns, and large construction sites were subject to slavery. It was observed that it exists and propagates from generation to generation to the next. Labor.
- Debt bondage in this system includes the debtor-creditor relationship. The creditor advances the loan to the worker and binds the worker until the loan is repaid. Debt repayment is so regulated that a servant cannot pay it off in his lifetime before serving the Lord for the rest of his life. This feature distinguishes between debt bondage and unpaid forced labour.
- Anxiety from Natural Disasters: - There are many natural disasters such as floods, droughts, earthquakes and famines that have devastating effects on the informal sector as well. Natural disasters do not destroy the informal sector's productive base, but they can also affect the limited household assets of their owners.

### **III. SOCIAL WELFARE SCHEMES FOR UNORGANISED WORKERS**

A detailed analysis of the problems of workers in the unorganized sector shows that social security is necessary to reduce the vulnerability of workers in the unorganized sector. The government made efforts to ensure a minimum level of social security for poor unorganized workers through the passage of the Law on Social Security for Unorganized Workers, but fell short in 2008. It has been found. The increase in informal jobs has led to a decrease in formal jobs for quality of life. You need a solid foundation of limits. Effective implementation of social protection programs for the target group, informal workers, rather than considering what social protection measures are necessary for the diverse needs of workers in unorganized sectors. Therefore, in the context of the Disorganized Social Insurance Act (2007), several major social assistance schemes including Aam Aadmi Bima Yojana (life insurance), Rashtriya Swasthya Bima Yojana (health insurance), etc. exists in the most vulnerable sectors of society with social security.

#### IV. ISSUES AND CHALLENGES OF MIGRANT WORKERS

Migrant workers are people who move from one place to another in search of employment opportunities within or across borders. They may be motivated by a variety of factors, including economic prospects, better living conditions, and flight from political or social instability in their home country. Migrant workers typically work in sectors such as agriculture, construction, hospitality, and domestic work. In many cases, they are in low-paying, low-qualification jobs. Migrant workers face several challenges.<sup>6</sup> Such workers face several challenges and issues due to lack of legal protection and social security such as:

- Fear and isolation- Undocumented migrant workers may be hesitant to report workplace accidents for fear of being reported to immigration officials, losing their jobs or being unable to find another employer to hire them. Some workers are promised jobs to lure them to come to foreign countries, but are not given the same type of work when they arrive. Sexual or physical assault incidents is underreported among migrant workers because of the fear of being reported to immigration officials.
- Lack of profit- Because they are often paid in cash, migrant workers are not entitled to company benefits such as pensions and insurance plans. They are also ineligible for state unemployment, disability, and social security benefits. Laws regarding breaks, overtime, sick pay and minimum wages shall not be observed, as workers have no claim. The Migrant Clinician Network (MCN) reports that migrant workers are struggling to meet their medical needs, and that frequent job transfers affect their continuity of care for serious health conditions.
- Dangerous situation- Workers can be held in unsanitary conditions that are especially dangerous for children. The food companies provide to their employees is often of poor quality and not nutritious. With many families living in the same facility, necessary amenities such as showers, stoves and toilets can break. One of the challenges immigrants face is the harsh environment they are exposed to in the workplace. For example, working for hours without rest in extreme weather.
- Cultural barriers- Discrimination and stereotypes are among the problems faced by migrant workers even when they are away from the workplace. Local residents may discriminate or reject migrant workers in accepting jobs available in their area. Migrant workers are often isolated from their neighbours because they do not speak the language

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<sup>6</sup> Shalini L, *Challenges Faced by Migrant Workers and How Companies Can Address Them*, Betterplace (April 23, 2022), <https://www.betterplace.co.in/blog/challenges-faced-by-migrant-workers/>

and shop primarily in ethnic stores. Language barriers can also make it difficult to understand legal documents such as tenancy agreements and tax returns.

- Parenting issues- Children of migrant workers often miss school and fall behind their peers because they have to work with their families. The immigrant population does generally not enforce Child labour laws, so there are no protections for children. Even if you do not actually work, you can spend the day with your parents at the construction site because there is no day-care. Families tend to move around with the seasons, making it even more difficult for children to keep up with school.

**The legislations, which deal with the protection of rights of labourer including migrant workers, are:**

- Interstate Migrant Workers (Conditions of Employment and Services) Act 1979<sup>7</sup> – This is the primary law governing interstate immigration. It was enacted to prevent the abuse of migrant workers by contractors and ensure fair employment conditions. Contractors must provide all these worker details to the appropriate authorities. Employees are entitled to the same wages as other employees for similar work, travel allowances, relocation allowances, and payment of wages while driving. They are also obliged to provide regular wages, adequate housing, free medical facilities, etc. These requirements are rarely enforced because they make compliance difficult for contractors.<sup>8</sup> The need for time is to streamline the law and ensure that contractors have the incentive to comply.
- Unorganized Workers Social Security Act, 2008<sup>9</sup> – This law was passed to ensure social security for unorganized workers and the national social security system. It obliges the central government to develop schemes for life and disability insurance, old-age insurance, medical benefits, or other government-designated benefits. A key provision of this law is that since more than 90% of India's labour force is employed in the unorganized sector, the state can issue cards to unorganized workers and It mandates the creation of a city immigration database. Such a database could have helped migrants in the current crisis, but poor implementation of the law prevented it. Payment of Wages Act 1936 – enacted to require employers to pay wages to those they employ on a regular

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<sup>7</sup> The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, Act 30 of 1979, India

<sup>8</sup> *Human Rights Violation of Migrant Workers*, Legal Aid and Support Centre (March 16, 2021), <https://legalaid.nmims.edu/human-rights-violation-of-migrant-workers/>

<sup>9</sup> Unorganized Workers' Social Security Act, 2008, Act No. 33 of 2008, India

in addition, timely basis. It also protects against unauthorized wage deductions and the imposition of arbitrary fines. When lockdowns were implemented, thousands of migrant workers were forced to return home because their employers did not ensure they would pay their wages. Employers especially in unorganized sectors cut wages due to "incompetence" despite the fact that production was halted due to an emergency. This is a fact supported by official decrees. There is no provision in the law to pay wages in the event of exceptional circumstances such as a pandemic. Therefore, in the current situation, the law cannot guarantee payment of wages, furthering the plight of workers.

- Employee Compensation Act, 1923<sup>10</sup> – enacted for workers' welfare. It is intended to require workers in certain types of employment to be paid and compensated for injuries caused by accidents that occur during employment. It also provides compensation for survivors in the event of an employee's death. Part A of the Act, Schedule III states that work involving the risk of contamination requires compensation. As such, organizations operating during the pandemic run the risk of their employees contracting the above categories of "infectious diseases." As such, employers may be obliged to pay compensation if an employee becomes infected during employment. Nevertheless, it is open to interpretation.

## **V. ISSUES AND CHALLENGES FACED BY CARE WORKERS**

Care workers are individuals who work in the healthcare, social care and education sectors, providing care and support to people who require assistance due to illness, disability, or old age. Care workers can take on a variety of roles, including nursing, home care, personal support, and childcare. They work in various settings, such as hospitals, nursing homes, community centres, and private homes. Care workers play an essential role in society, providing physical, emotional, and social support to vulnerable individuals. They require a range of skills, including empathy, patience, and the ability to work under pressure. Care work is a growing field, with an increasing demand for skilled workers due to the aging population and growing healthcare needs. Care workers have to face several challenges and issues because the healthcare landscape is changing, as are the risks and challenges facing employers in the healthcare industry. Healthcare employers have historically faced a number of difficult work and employment-related issues, including increased unionization attempts with rising wages and working hours, and class action lawsuits for negligence. Recruitment and discrimination

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<sup>10</sup> Employee Compensation Act, 1923, Act No. 8 of 1923, India



claims; the complexities of mergers and acquisitions in healthcare recent laws, regulatory and judicial changes have exacerbated these challenges and created new industry barriers. Whistle-blower lawsuits against healthcare employers have reached unprecedented levels. Wage change payment regulations strive home care employers to understand and comply with evolving developments law. Federal agencies are redefining which health care institutions should be protected and controlled by the government contract terms. Mass hysteria over disease outbreak derailed health care safety practices microscope. At the same time, the demand for quality healthcare is growing.

### **Legal mechanisms in place to address labour and employment issues in healthcare:**

- Anti-discrimination laws prohibit discrimination based on race, colour, religion, sex, or national origin they also prohibit discrimination based on disability. These laws apply to healthcare employers and help prevent discrimination against care workers.
- Wage and hour laws establish minimum wage, overtime pay, record keeping, and child labour standards. These laws help ensure that care workers are properly compensated.
- Workplace safety laws help ensure safe working conditions for care workers by setting and enforcing safety and health standards. They require employers to provide safety training and report workplace injuries.
- Labour laws establish the rights of employees to organize and collectively bargain. These laws give care workers the right to join labour unions and negotiate the terms and conditions of their employment.
- Wrongful termination laws: Laws prohibiting wrongful termination prevent employers from firing employees for unlawful reasons. This provides job security and protection for care workers.
- Negligent hiring laws: These laws require healthcare employers to exercise reasonable care when hiring to avoid foreseeable risks of harm to third parties. This means carefully screening candidates to ensure they do not pose safety risks.
- Merger and acquisition requirements require prior notification of large healthcare mergers and acquisitions. This protects care workers by subjecting deals that could influence them to government review and potential legal challenges.<sup>11</sup>

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<sup>11</sup> McKinley Anderson et al., *Labor and Employment Issues Facing the Healthcare Industry*, Littler (July 11, 2019), <https://www.littler.com/publication-press/publication/labor-and-employment-issues-facing-healthcare-industry#:~:text=Healthcare%20employers%20have%20historically%20had%20to%20contend%20with,and%20the%20complexities%20of%20healthcare%20mergers%20and%20acquisitions>

Therefore, in summary, there are many central and state laws regulating labour and employment practices that apply to healthcare employers and help safeguard care workers. Employers must understand and comply with all these laws.

## **VI. POLICIES RELATED TO UNORGANISED LABOUR**

- **National policy on skills development-** Skills and knowledge are the drivers of economic growth and social development in any country. Better countries with higher skill levels are better adapted to the challenges and opportunities of the world of work. Potential target groups for skills development include workers entering the labour market for the first time (12.8 million annually), those working in the organized sector (26 million) and those working in the unorganized sector (433 million). Includes all workers, including 2004-05. The current capacity of the qualification program is 3.1 million. India has set a target to have her 500 million skilled workers by 2022.
- **The National Skill Development Corporation** is a not-for-profit corporation under the Companies Act 1956 with a proper governance structure. Company leaders are respected figures/recognized experts in the field of professional development. The Corporation forms a Sector Skills Council with the following functions: Identify skill development needs, including creating a catalogue of skill types, skill breadth and depth to assist individuals in making choices. Preparation of sector capacity development plans and capacity inventories. Definition of skills/competence standards and qualifications. Standardization of registration and accreditation processes. Participation in affiliations, certifications, tests and certifications. Plan and conduct training for trainers. Promotion of Excellence Academy. Establishment of appropriately configured branch-specific labour market information systems (LIMS). Support training course planning and delivery
- **Safety, Health and Environment at Work Place-** The Constitution of India provides detailed provisions on the rights of citizens and also establishes guiding principles for national policy that establish the goals to which the nation's activities should be directed. Based on these policy principles and international instruments, governments regulate all economic activities for the management of occupational health and safety risks and establish policies to ensure safe and healthy working conditions for all workers in the country. We are working to take action. Governments recognize that worker safety and health have a positive impact on productivity and economic and social development. Prevention is an essential part of doing business. High standards

of safety and health in the workplace are as important as good business development in new and existing industries.

- **National Policy on HIV AIDS-** the HIV/AIDS epidemic is one of the greatest challenges to development and social progress. Epidemics exacerbate poverty and inequality, increasing the burden on the most vulnerable members of society. H. Elderly, women, children and the poor. Countries and organizations that fail to respond in a timely manner will suffer public and private sector losses through reduced productivity, loss of skilled and experienced workers, and increased employee medical and related costs associated with increased demand for public services. Imposes enormous costs on companies in as seen in hard-hit regions such as Sub-Saharan Africa, the domestic economy is affecting virtually all sectors.<sup>12</sup>
- **National Child Labour Policy-** the National Child Labour Policy was approved by the Cabinet on 14 August 1987 during the 7th Five Year Plan. The policy has the basic aim of providing adequate rehabilitation for children removed from the labour force; thereby reducing the incidence of child labour in areas known to have high concentrations of child labour was formulated.

## VII. CONSTITUTIONAL PROVISIONS

According to the Indian Constitution, labour is the subject of a concurrent list and both the central and state governments have the power to legislate when specific issues are reserved centrally.<sup>13</sup>

| <b>Union List</b> | <b>Concurrent List</b>   |
|-------------------|--|
| Entry No. 55      | “Regulation of labour and safety in mines and oil fields”  |
| Entry No. 22      | “Trade Unions; industrial and labour disputes.”  |
| Entry No. 61      | “Industrial disputes concerning Union employees”   |
| Entry No. 23      | “Social Security and insurance, employment and unemployment.”  |
| Entry No. 65      | “Union agencies and institutions for "Vocational ...training..."”  |
| Entry No. 24      | “Welfare of labour including conditions of work, provident funds, employers "invalidity and old age pension and maternity” |

<sup>12</sup> Sidra Khan, *Unorganised sector: problems of facilities, wages and job security*, iPleaders (Dec. 25, 2020), <https://blog.ipleaders.in/unorganised-sector-problems-facilities-wages-job-security/>

<sup>13</sup> *Constitutional Provision*, Government of India Ministry of Labour and Employment, <https://labour.gov.in/constitutional-provision>

## VIII. CONCLUSION

The issue of protecting the rights of unorganized labour is complex and requires a multi-faceted approach. While the government has implemented various policies and legal mechanisms to address the issues faced by unorganized workers, there are still several challenges that need to be addressed. One of the major challenges faced by unorganized workers is the lack of social security. Many unorganized workers do not have access to basic amenities such as healthcare, education, and housing. This makes them vulnerable to economic and social risks such as illness, disability, and poverty. To address this issue, the government can focus on strengthening the implementation of existing policies such as the Unorganized Workers' Social Security Act, 2008, and provide adequate resources to support unorganized workers. Another challenge faced by unorganized workers is exploitation. Many unorganized workers are paid low wages and do not receive proper working conditions. This can lead to physical and mental health issues and affect their overall well-being. To address this issue, the government can focus on enforcing labour laws and regulations and providing legal aid to unorganized workers who face exploitation. Additionally, awareness campaigns can be organized to educate unorganized workers about their rights and entitlements. Many unorganized workers are not aware of the legal provisions that protect their rights, and this can make them vulnerable to exploitation and discrimination. By educating unorganized workers about their rights, we can empower them to demand better working conditions and social protection. Lastly, trade unions can play a crucial role in protecting the rights of unorganized workers. Trade unions can advocate for the interests of unorganized workers and negotiate with employers and the government on their behalf. By organizing and mobilizing unorganized workers, trade unions can create a collective voice that can bring about change and improve the welfare of unorganized workers. In summary, protecting the rights of unorganized labour requires a multi-pronged approach that involves strengthening existing policies, providing legal aid and awareness, and organizing and mobilizing unorganized workers. By prioritizing the welfare of unorganized workers, we can create a more equitable and just society for all.

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