



Unorganised sector labour and social security: A Study

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ABSTRACT

Small and tiny enterprises in India are creating more employment opportunities after late 90's. Currently these enterprises are employing most of the labour on regular wages. However these labour force are categorized as unorganised sector labour because of absence of social security schemes. The informal sector as defined in the resolution of the 15th International Conference of Labour Statisticians (ICLS), January 1993, consists of unincorporated household enterprises which differ from formal enterprises in terms of technology, economies of scale, use of labour intensive processes, and virtual absence of well-maintained accounts. Although there are many schemes and laws are existing for the welfare of social sector labour in India, there is no comprehensive scheme with social security. The present paper aims to examine the welfare measures and provisions in various existing social welfare laws and schemes in India for the welfare of the unorganised sector labour.

KEYWORDS : Social Security, unorganised sector labour, legislation, minimum wages

The unorganized sector in India is typically characterized by the lack of labour law coverage, seasonal and temporary nature of occupations, high labour mobility, dispersed functioning of operations, casualization of labour, lack of organizational support, low bargaining power, etc. all of which make it vulnerable to socio-economic hardships. The nature of work in the unorganized sector varies between regions and also between the rural areas and the urban areas, which may include the remote rural areas as well as sometimes the most inhospitable urban concentrations.

In the rural areas it comprises of landless agricultural labourers, small and marginal farmers, share croppers, persons engaged in animal husbandry, fishing, horticulture, bee-keeping, toddy tapping, forest workers, rural artisans, etc. where as in the urban areas, it comprises mainly of manual labourers in construction, carpentry, trade, transport, communication etc. and also includes street vendors, hawkers, head load workers, cobblers, tin smiths, garment makers, etc.

The unorganised sector social security act 2008 defined unorganised sector as an enterprise owned by individuals or self-employed workers and engaged in the production or sale of goods or providing services of any kind whatsoever, and where the enterprise employs workers, the number of such workers is less than ten.

It also defined unorganised worker means a home-based worker, self employed worker or a wage worker in the unorganised sector and includes a worker in the organised sector who is not covered by any of the acts mentioned in schedule II, such as provident fund, final assistance, housing and educational schemes for the children of the above act.

India's workforce comprises nearly 93 per cent in the unorganised segment, with the entire farm sector falling under the informal category, while only one-fifth of the non-farm workers are found in the organised segment. The labour in India consists of about 487 million workers of which over 94 percent work in unincorporated, unorganized enterprises ranging from pushcart vendors to home-based diamond and gem polishing operations. Estimates suggest that in the non-farm sectors, as we move up the income ladder, the share of the informal sector gradually declines. However, as far as the agricultural sector is concerned, irrespective of economic class, the share of the unorganised workforce remains flat. More than 30% of National Income comes from the Unorganized Sector.

Indian unorganised sector labour – a summary

One of the most peculiar features in the Indian labour market is the wide prevalence of the subsistence mode and the unorganised nature of production of goods and services. In India the labour workforce is estimated as 472 million workers in the working age group (15 to 59 years). Of which about 392 million or equal to 83 per cent are working in the unorganised or informal sector, where there is no guarantee for employment and or

other benefits like ESI, PF etc. They are not covered under any schemes/ programs (refer table 1 below). Out of the total 392 million workers, only less than 2 million workers had formal employment.

As per the DGE & T reports on the informal sector employment particularly with a limited focus on secondary and tertiary units, since 1997 the organised sector employment has witnessed a constant decline, particularly in the public sector.

Existing Social Security laws in India

Labour protection for the working people in India is available under various laws enacted by the Parliament as well as the State Legislatures. The Preamble of the Constitution of India guarantees its citizens justice- social, economic and political; liberty of thought, expression, belief, faith and worship; equality of status and opportunities and fraternity, dignity of individual and dignity of nation.

Part IV of the Constitution of India relating to Directive Principles of State Policy, inter alia, call for provisions for right to work and education; public assistance in cases of unemployment and of social security; just and humane conditions of work; maternity relief; living wage and working conditions capable of ensuring decent standard of life (Articles 41 to 43); workers participation and management 1.3 Part III of the Constitution of India prohibits the forced labour and employment of children in factories or mines or in hazardous occupations (Articles 23 and 24). Fundamental right to freedom of association and formation of unions is also guaranteed under Article 19.

Further, there are several ILO Conventions on Social Security like Convention No.102 on Social Security (Minimum Standard) adopted in 1952 includes measures on medical care and benefit for sickness, unemployment, old age, employment injury, maternity and survivor benefits. Government of India has not ratified the Convention No.118 regarding Equality of Treatment (Social Security Convention) 1962 which enjoins upon the member states to grant equality of treatment to the nationals of any other member under its legislation with its own national, both as regards the coverage and right to benefits in respect of every branch of social security as specified in Convention No.102. However, Government of India ratified this Convention as early as in the year 1964.

Most of the laws relating to social security in India are generally conforming to the Conventions and Recommendations of ILO, although many of the Conventions are yet to be ratified by India.

The organized sector workers which constitute about 7% of the total workforce of about 400 million in the country are covered under various legislations providing social security to these workers. The major legislations providing social security to these workers are: the Employees' State Insurance Act, 1948 and the Employees Provident Fund & Miscella-

neous Provisions Act, 1952 etc. These two legislations provide for medical and health insurance and provident fund & pension to the workers respectively.

The workforce in the unorganised sector comprising about 37 crore or 93% of the total workforce do not get adequate labour protection in terms of job security, wages, working conditions, social security and welfare due to various factors such as;

- i. casual and seasonal employment
- ii. scattered work place
- iii. poor working conditions
- iv. lack of employer-employment relationship
- v. irregular and often long working hours
- vi. limited access to credit
- vii. lack of legal protection
- viii. social security and
- ix. Government support.

In the context of preparation of the Eleventh Five Year Plan, the Planning Commission had set up a Working Group on Social Security under the Chairmanship of Secretary, Ministry of Labour & Employment, Government of India vide their Order No. Q-20017/6/06/LEM/LP dated 3rd March, 2006.

Thus, the Ministry of Labour & Employment drafted the "Unorganised Sector Workers Bill, 2004" which, inter-alia, envisages provide for safety, social security, health and welfare matters. The National Advisory Council (NAC) has forwarded a draft Bill namely, 'the Unorganised Sector Workers Social Security Bill, 2005.

In the meantime, the National Commission for Enterprises in the Unorganised Sector (NCEUS) has also drafted two bills i.e. (i) Unorganised Sector Workers (Conditions of Work & Livelihood Promotion) Bill, 2005 and (ii) Unorganised Sector Workers Social Security Bill, 2005. All the four draft Bills are being examined. The National Commission for Enterprises in the Unorganised Sector has also presented its report on Social Security for Unorganised Sector Workers in May, 2006. The recommendations of the NCEUS's report, amongst other, include that any worker registered with the National Social Security Scheme for the unorganized workers, on payment of prescribed contribution, shall be entitled to National Minimum Social Security benefits including health insurance, maternity benefit, insurance to cover natural and death due to accident, old age pension to Below Poverty Line (BPL) workers above the age of 60 years and Provident Fund for above poverty line (APL) workers.

Justification for social security for unorganised sector

The Constitution of India enacted upon independence of the country though does not provide for compulsory institution of social security for all, yet, its directive principles of state policy contained in article 38 to 47 provide for theme idea in this regard explicitly. Same precisely provides for as under:

- The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may, a social order in which justice, social, economic and political, shall inform all the institutions of the national life.
- The State shall in particular strive to minimize the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.
- The State shall in particular, direct its policy towards securing – a) that

the citizens both men and women equally have the right to an adequate means of livelihood;

that the ownership and control for the material resources of the community are so distributed as best to sub-serve the common good; and

- The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

The National Common Minimum Programme (NCMP) of the present Government highlights the commitment of the Government towards the welfare and well-being of all workers, particularly, in the unorganised sector. The NCMP states that:

"The UPA Government is firmly committed to ensure the welfare and wellbeing of all workers, particularly those in the unorganised sector who constitute 93% of our workforce. Social security, health insurance and other schemes for such workers like weavers, handloom workers, fishermen and fisherwomen, toddy tappers, leather workers, plantation labour, beedi workers, etc. will be expanded."

In this direction the government proposes to enact a comprehensive legislation for the workers in the unorganised sector to provide social security to these workers. The proposal is at the stage of consultation with all concerned. It is endeavour of the Government to enact such a law which is beneficial for the workers and is equally acceptable to all other social partners.

Conclusion

It can be concluded that the Unorganised Worker Social Security Act 2008 is a collection of piece meal schemes without any logic leaving behind vast numbers of vulnerable workers to fend for themselves. There is need to create a comprehensive social security scheme for the welfare of the unorganised sector labour in India consisting of a national minimum social security, minimum conditions of work and a national minimum wage regulation including other benefits like pension, health, education and insurance so that no one is allowed to fall below this floor.

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