



## Socio-Legal Status of the Unorganised Women Workers With Respect to Employment Security

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### ABSTRACT

This particular work is focused on the socio-legal issues involved Employment security of unorganized women workers. Despite the existence of various plans and legislations to provide employment security, the socio-legal status of the unorganized women workers are still deplorable. An urgent attention is required to minimize this type of exploitation.

### KEYWORDS

The concept of employment of women has started playing a dominant role in economic life of country throughout the world. With the advent of industrialization, employment opportunities for women have assumed wider dimensions both in developed countries and developing countries. It has been increasingly realized that women along with men play a meaningful role in the context of prosperity of the country as well as for the purpose of raising standard of living of the residents of that country. It has been well established that women play vital role in economic and social life of the country. But the condition of women in unorganized sector is more deplorable even unorganized women workers have been considered as an important segment on the labour force. According to an estimate of the National Commission of Self Employment of women, 94% of the total female work force operates in the unorganized sector. They do arduous work as wage earners, piece rate workers, casual labour and paid family labour. The coverage of labour laws has not benefited these women workers in many areas of wages, working conditions, maternity benefits and social security.

Unorganised sector is that sector for which there are laws. The unorganized sector means sector having following characteristics: (i) having no organic structure (ii) having no regular order, system, or organization (iii) not behaving, thinking, etc. in an orderly way (iv) not having or belonging to a labor union. In most of the developing countries wide spread unemployment and under-employment, the important facet of employment security; pose varied problems for the working women especially in unorganized sector. For the purpose the study it is necessitated to know what is employment security? Employment security is considered one of the aspects of the social security. The concept Social Security is considered as a system, because it represents basically a system of protection of individuals who are in need of such protection by the State as an agent of the society. Such protection is relevant in contingencies such as unemployment, underemployment, sickness, accident or old age and death. With the advent of the globalization and industrialization, the concept of society security is now extended to other areas in order to provide protections to members of the society against the economic and social distress which is caused by the stoppage or substantial reduction of earnings resulting from retirement, resignation, retrenchment, maternity, employment injury, occupational diseases, invalidity, etc.

In India the social security is available mostly to the organized sector ignoring unorganized sector even though the Constitution of India offers protection and social security to all its citizens. The Indian Constitution within it "Welfare State" framework makes special provisions under Articles 14, 15, 19,

21, 23, 24, 38, 39, 41, 42, 43 and 47 for the unorganized sector in general and women workers in particular. Inspite of the guarantees within the Indian Constitution in terms of equality of opportunities to work, equal rights for livelihood, equal pay for equal work, etc., the position of women in the unorganized sector is still deplorable.

**Dimensions of Employment security:** In order to the discuss social-legal status of the unorganized women workers, for the purpose of the study; it is pertinent to identify the dimensions of the employment security with respect to unorganized women workers. It has been identified from various studies that poor working conditions, irregular employment, gender-bias employment, less women participation, fixed hours working, exploitation at work place and possession of job/identity card are the dimensions of the employment security which are being discussed below.

Various Studies()()() which were conducted in the various parts of the country reveals the awful conditions of the women labourers in the unorganized sector. It has been observed that a significant percentage of the jobs in this sector are managed by women drawn from lower caste and lower class women. Ignorance, tradition bound attitudes, illiteracy, lack of skills, seasonal nature of employment, heavy physical work of different types, long hours of work with limited payment, discrimination in wage structures of men and women, lack of guarantee of minimum wage, lack of job security, lack of comprehensive legislation to cover these labourers in unorganized informal sector, lack of minimum facilities at the work-site, ill-treatment, migration and disintegration of families, bondage and alienation, etc. are the characteristics of the employment women in this sector. According to the International Labour Organisation, women represent: i) 50% of the population, ii) 30% of the labour force, iii) Perform 60% of all working hours, iv) Receive 10% of the world's income and v) Own less than 1% of the world's property.

Since the women workers in the unorganized sector work in poor working conditions, it is the duty of the employer to provide conducive working conditions to the workers and it is the duty of the State to ensure such working condition as per the provision of Article 42 of the Constitution of India. With respect to 'irregularity and gender-bias of employment/ less women participation', it is evident that the employer gives more preference to men workers than women workers. As per *FAO/IFAD/ILO* women workers' their potential to do so is limited by multiple and diverse constraints by persistent structural gender disparities that prevent them from enjoying their economic and other rights. Article 55 of the United Nation's charter also declares that the UN shall "promote universal re-

spect for and observance of human rights and fundamental freedoms for all without distinction." Article 1 of the Universal Declaration of Human Rights speaks about equal dignity and right. Article 2 provides that everyone is entitled to all rights and freedoms without any distinction. Article 23(4) United Nations charter declares that everyone has right to work, freedom of choice of employment, to just and favourable conditions of work and to protection against employment.

While analyzing the dimension of 'fixed working hour', it may be said that in India there are number of laws regulating the working hours of the workers. In Factories Act, 1948; the Plantation Labour Act, 1951, the Mines Act, 1952, the Bedi and Cigar Workers (Conditions of employment) Act, 1966 and the Building and other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 prescribe definite working hours on weekly as well as daily basis. But these laws are not being implemented properly for the unorganized women workers.

'Exploitation at work place', which has turn into a menace, is a common phenomenon especially for unorganized women labourers. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the 'Beijing Declaration' which directs all State Parties to take appropriate measure to prevent discrimination of all forms against women. Article 7 of the International Covenant on Economic and social and Cultural rights recognizes the women's right to fair conditions of work including rights against sexual harassment at work place. Under Article 21 right to life includes right to live with dignity as it is established in *Maneka Gandhi's* case and *Francis Coraile's* case. Recently the Sexual Harassment at Work Place (Prevention, Prohibition and Redressal) Act, 2013 has been passed which covers not only the organized sector but also the unorganised sector. Prior to this enactment, a detail guideline was formulated by the Supreme Court of India in *Vishakha's* case to prevent any sexual harassment at work place. In *Apparel Export Promotion Council v. A.K.Chopra* the Supreme Court said that each attempt of sexual harassment of female at the place of work results in violation of the fundamental right to Gender Equality in Article 14 and the right to life and liberty in Article 21 of the Constitution and courts are under constitutional obligation to protect and preserve those Fundamental Rights.

It is evident from the fact that employers in the unorganized sector do not provide job card/identity to their workers. In the Building and other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, the National Rural Employment Guarantee Act, 2005 and the Unorganised

Sector Workers' Social Security Act, 2008 there are provisions for job card/smart card. Under Section 10 of the unorganised Sector Workers' Social security Act, 2008, it is provided that "Every unorganised worker shall be registered and issued an identity card by the District Administration which shall be a smart card carrying a unique identification number and shall be portable." But it is a matter of great regret that the workers especially the female workers who are unorganised do not possess any idea/knowledge about the manner of registration which shows a very poor picture.

The above analysis highlights that the unorganised women workers do not enjoy employment security at par with organized sector. Judiciary is also quite vigilant in the matter of working conditions of the employees/workers. From time to time it has tried to create new labour jurisprudence to ensure the employment security to workers especially women workers. Indian Judiciary through its several verdicts have taken keen interest in the employment security of the workers. Among them *People's Union for Democratic Rights and Others v. Union of India*, *Sanjit Roy v. State of Rajasthan*, *Bandhua Mukti Morcha v. Union of India*, *Neeraja Chaudhury case*, *Salal Hydro Project v. State of Jammu & Kashmir*, *Vishaka v. Union and Smt. Anjali Rai v. State of West Bengal* are worth mentioning. However, Indian Parliament has created a number of laws to bring employment security to the working class. In the Mines Act, 1952; the Plantation Labour Act, 1951; Bedi and Cigar Workers (Conditions of Employment) Act, 1966; the Building and Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996; the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979; the National Rural Employment Guarantee Act, 2005 and the Unorganised Sector Workers' Social Security Act, 2008 lots of provisions are there specifically for regulation of working conditions of the workers. But, hardly any law is applicable to the unorganised sector. Or is it found to be properly implemented in this sector. Hence a comprehensive legislation needs to be designed to ensure the end of the exploitation of these workers.

**Conclusion:** To conclude, it may be ascertained that employment security being the part of the social security must be practically available to the unorganized women workers in order to raise their social-legal status. Mere making plans and enacting laws would not suffice to prove that employment security is available to the unorganized women workers until those were enforced and implemented properly.