

**LABOUR LAW PROJECT ON**  
**UNORGANISED SECTOR**

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Roll No.

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# **UNORGANISED SECTOR**

## **1. INTRODUCTION**

Our Constitution of India provided to all citizens of the country justice- social, economic and political, liberty of thought, expression, belief, faith and worship; as well as equality of status and opportunity irrespective of their caste, creed, status, religion, race, sex and nature of their work. Yet the gap which existed between organized and unorganized sector in our country is very wide which made our system unequal in the eyes of law.

In local terms, *organised sector* or *formal sector* in India refers to licensed organisations, that is, those who are registered and pay sales tax, income tax, etc. These include the publicly traded companies, incorporated or formally registered entities, corporations, factories, shopping malls, hotels, and large businesses. *Unorganised sector*, also known as *Unorganised sector or own account enterprises*, refers to all unlicensed, self-employed or unregistered economic activity such as owner manned general stores, handicrafts and handloom workers, rural traders, farmers, etc.

An Unorganised Sector can be defined as the sector where the elements of the Organised Sector is absent. In the absence of a more analytical definition, the landscape of the unorganised sector becomes synonymous with the kaleidoscope of unregulated, poorly skilled and low-paid workers. While defining an unorganised sector we can say that it is a part of the workforce which has not been able to organise in pursuit of a common objective because of constraints such as casual nature of employment, ignorance and illiteracy, small size of establishments with low capital investment, per person employed,

scattered nature of establishments, superior strength of the employer etc. “ The unorganized Sector consists of all private enterprises having less than ten total workers, operating on a proprietary or partnership basis.”<sup>1</sup>

There are different terminologies used to signify the unorganized sector like informal sector, informal economy, and even informal labour which often highlights the most affected part of the sector, namely, the labour. “Informal labour is a labour whose use is not governed either by state regulations or by collective agreements between workers and employers.”

Labour market is not homogenous. It is broadly segmented into unorganised and organised, wage earners and self-employed, skilled, semi-skilled and unskilled and so on. Every regulation relating to social security and working conditions has different meaning and implication for every segment.<sup>2</sup>

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<sup>1</sup> by National Commission on Enterprises in the Unorganized sector in 2004.

<sup>2</sup> DR. BALWINDER SINGH -WORKER'S LIFE, WORK AND DECENCY  
NEEDED REGULATORY MEASUR  
IN INDIA (2009)

## **2. Trends in Unorganised Sector,their characteristics and needs in India**

The Indian Economy is characterized by the existence of a vast majority of informal or unorganized labour employment. As per the Economic Survey 2007-08, 93% of India's workforce include the self employed and employed in unorganized sector. The term 'unorganised labour' has been defined as those workers who have not been able to organise themselves in pursuit of their common interests due to certain constraints, such as casual nature of employment, ignorance and illiteracy, small and scattered size of establishments, etc. A large number of unorganized workers are home based and are engaged in occupations such as beedi rolling, agarbatti making, papad making, tailoring, and embroidery work.

### **The major characteristics of the unorganized labourers:**

1. The unorganized labour is overwhelming in terms of its number range and therefore they are omnipresent throughout India.
2. As the unorganized sector suffers from cycles of excessive seasonality of employment, majority of the unorganized workers does not have stable durable avenues of employment. Even those who appear to be visibly employed are not gainfully and substantially employed, indicating the existence of disguised unemployment.
3. The workplace is scattered and fragmented.
4. There is no formal employer – employee relationship
5. In rural areas, the unorganized labour force is highly stratified on caste and community considerations. In urban areas while such considerations are much less, it cannot be said that it is altogether absent as the bulk of the unorganized workers in urban areas are basically migrant workers from rural areas.

6. Workers in the unorganized sector are usually subject to indebtedness and bondage as their meagre income cannot meet with their livelihood needs.
7. The unorganized workers are subject to exploitation significantly by the rest of the society. They receive poor working conditions especially wages much below that in the formal sector, even for closely comparable jobs, i.e., where labour productivity are no different. The work status is of inferior quality of work and inferior terms of employment, both remuneration and employment.
8. Primitive production technologies and feudal production relations are rampant in the unorganized sector, and they do not permit or encourage the workmen to imbibe and assimilate higher technologies and better production relations. Large scale ignorance and illiteracy and limited exposure to the outside world are also responsible for such poor absorption.
9. The unorganized workers do not receive sufficient attention from the trade unions.
10. Inadequate and ineffective labour laws and standards relating to the unorganized sector.

The Ministry of Labour, Government of India, has categorized the unorganized labour force under *four* groups in terms of Occupation, nature of employment, specially distressed categories and service categories.

**1. In terms of Occupation:**

Small and marginal farmers, landless agricultural labourers, share croppers, fishermen, 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 mills, oil mills etc. come under this category.

**2. In terms of Nature of Employment:**

Attached agricultural labourers, bonded labourers, migrant workers, contract and casual labourers come under this.

**3. In terms of Specially distressed categories:**

Toddy tappers, Scavengers, Carriers of head loads, Drivers of animal driven vehicles, Loaders and unloaders come under this category.

**4. In terms of Service categories:**

Midwives, Domestic workers, Fishermen and women, Barbers, Vegetable and fruit vendors, News paper vendors etc. belong to this category.

In addition to these four categories, there exists a large section of unorganized labour force such as cobblers, Hamals, Handicraft artisans, Handloom weavers, Lady tailors, Physically handicapped self employed persons, Rikshaw pullers, Auto drivers, Sericulture workers, Carpenters, Tannery workers, Power loom workers and Urban poor. There are various definitions for the Unorganised sector in India. According to the Central Statistical Organisation, all unincorporated enterprises and household industries (other than organized ones) which are not regulated by law and which do not maintain annual accounts or balance sheet constitute the unorganised sector. The Directorate General of Employment and Training (DGET) defines the organized sector as comprising all establishments in the private sector, which employ 10 or more persons.

By implication of this definition, Unorganised sector is comprised of enterprises with less than 10 employees. These are not a) organised systematically, b) made formal through mandatory registration or licence , c) covered by legislation to protect minimum labour standards in employment and (development) unionized.

## **NEEDS OF UNORGANISED SECTOR**

It is worthwhile to list out the major security needs of the unorganised sector. They are:

- a. Food Security:** Food security is considered as an important component of social security. The rural workers and weaker sections of the community are badly affected during times of drought, flood and famine, and due to similar natural calamities. The DPAP largely confines itself in the provision of employment through rural works programme. What is required is to provide security for food in times of difficulty and during normal times. The Public Distribution System (PDS) implemented in Indian States stand as a model attempt in this direction. It is through the PDS that the government endeavors to protect the real purchasing power of the poorer sections by providing them an uninterrupted supply of foodgrains at prices far below market prices. It is to be noted that the PDS was introduced only to the urban areas initially, but since 1970s rural areas are also covered

**Nutritional Security:** It is not just 'food', but the nutrition is very important. The weaker sections of the community and the unorganised workers are not conscious about the nutrient intake. Particularly, the children and women, pregnant women and aged do not receive adequate nutrient requirements. Lack of nutrient leads to poor growth, poor health and sickness, poor performance and shorter life. There are certain initiatives by the states, local bodies and NGO's to create awareness on health and nutrition and to ensure adequate nutrient intake for the targeted groups, particularly to children and women.
- b. Health Security:** Health security can be described as ensuring low exposure to risk and providing access to health care services along with the ability to pay for medical care and medicine. Such health security should be made available to all citizens. Several studies that examined rural health conditions and health care

needs highlight that the inadequate and poor rural health infrastructure, growing health care needs and health care expenses. Establishing hospitals with required infrastructure in all the villages is a question of feasibility, viability and availability of inputs and resources. However, it is a matter of concern to consider the needs of the 70 per cent of the people living in villages. The poor do not treat for common illness and sometimes to major diseases that are unidentified by them, causing higher level of untreated morbidity. Similarly, the cost and burden of treatments are ever increasing and leading to difficulty for the poor and weaker sections of the community.

**c. Housing Security:** Housing is one of the basic needs of every individual and family. The housing needs of the unorganised workers and the poor are ever increasing in the context of the decay of joint family system, migration and urbanisation. In urban areas, though housing is a major issue, the organised workers are supported by providing House Rent. Allowances (HRA) or by providing houses through Housing Boards and by providing accommodation in the Quarters. There are several financing companies and commercial banks offering loans to organised workers to construct or purchase houses. These facilities are normally not available and could not be enjoyed by the unorganised workers. More over, the housing conditions of the rural poor are 'really poor' and there is scope for reconditioning, modification and reconstruction, in many. The rural housing programme implemented in Tamilnadu namely Samathuvapuram and construction of houses under Slum Clearance Board stand as examples for steps towards housing security. Employment Security: Unorganised workers are greatly affected by the seasonal nature of the employment opportunities. The problem of under-employment and unemployment persist to a large extent among

unorganised sectors. There are several schemes such as Swarnajayanti Gram Swaeozgar Yojna (SGSY), Pradhan Mantri Gran Sadak Yojana (PMGSY), Sampoorna Gramin Rozgar Yojana (SGRY), National Food For Work Programme(NFFWP), Indra Awass Yojna (JAY), Integrated Wastelands (IWDP), Drought Prone Areas Programme (DPAP) and Desert Development Programme (DDP) initiated to generate employment opportunities in rural India. Further, the Government has recently enacted the National Rural Employment Guarantee Act to provide 100 days guaranteed employment to rural households. Though these initiatives have contributed in reducing the rural unemployment problem, the problem of employment insecurity needs to be addressed in a wider context and solved at. Income Security: Though income and number of days of employment are positively related, this relationship holds good mainly for organised workers. As for as unorganised workers are concerned, their income is highly influenced by nature of job, nature and type of products produced quantum of value addition, market value, competition, etc. To protect from the crop loss, Crop Insurance Scheme is available. But for various other self-employed enterprises and other jobs, there is no security available to realise income for the efforts.

**d. Life and Accident Security:** The death of a worker in a family is a great loss to the entire family and it adds burden too. The death of a worker raises the question of survival of the family left behind due to the permanent loss of income to the family. Similarly, an accident is a major problem for an informal worker since it leads to loss of income and cost of treatment. If the accident leads to permanent or partial disability, the financial loss will be severe and unimaginable. By covering the unorganized workers under the Insurance schemes of individual, family and group could alone provide security for life and accident.

**e. Old Age Security:** The workers of the unorganised sector face the problem of insecurity when they reach to the life stage of aged when they could not work for themselves. The question of dependency is a major threat to the old age unorganised workers in the context of disappearing joint family system.<sup>3</sup>

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<sup>3</sup> DR. BALWINDER SINGH -WORKER'S LIFE, WORK AND DECENCY  
NEEDED REGULATORY MEASUR  
IN INDIA (2009)

### **3. Segments of Unorganised Sector and their problems**

A vast majority of the self-employed Unorganised sector workers are *street vendors*. “A street vendor is broadly defined as a person who offers goods for sale to the public at large without having a permanent built up structure from which to sell. Street vendors may be stationary in the sense that they occupy space on the pavements or other public/private spaces or, they may be mobile in the sense that move from place to place by carrying their wares on push carts or in baskets on their heads.”

Another major category is *domestic workers*. According to the definition of ILO „a domestic worker is the one whose main responsibilities include or involve house-keeping, house-cleaning, laundry, ironing, cooking, dish-washing, food-preparation or food service, regardless of whether or not that person also acts as a garden worker”<sup>4</sup>

#### **Women in Unorganised Sector**

Though women are entering the work force, they are least recognised as workers many a times. A large number of women work without pay. A significant proportion of women are self-employed which means they are engaged in informal work. They have poor working conditions and they lack social security. There is inequality within this informal work. Women are disproportionately represented and they occupy lower quality jobs within the self-employment. In the case of highly skilled women, the gender pay gap still persists due to the inequality and the lack of anti-discrimination laws.

Indian society has got a significant role in the increasing number of women workers in the informal economy. There are regional, religious, social and economic groups which are independent of each other. Indian society is hierarchical with everyone ranked

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<sup>4</sup> [www.wikipedia.com](http://www.wikipedia.com)

according to their caste, class, wealth and power. In addition to that, much of nd home-based work etc. are not accounted in the statistics. In addition to that, women are traditionally responsible for the daily household chores. As a result of the cultural and other restrictions more and more women are involved informal work than in the formal work, where the jobs are unskilled and low-paying with little benefits

### **Problems Faced by the Unorganised sector Workers**

The problems faced by the Unorganised sector workers are wide and varied. Each segment of the Unorganised sector faces different problems based on the type of the work. For eg. Street vending is considered illegal in many countries. Street vending is illegal in Cambodia as per the Sub-Decree on Public Order signed by First and Second Prime Ministers on August 10; 1994. It prohibits selling goods and disturbing public order. Hawkers selling in trolleys are also prohibited. People who fail to obey the rules are fined (Kusakabe, 2006). There were sporadic evictions in Tanzania, Zambia and Zimbabwe. The most violent eviction was Operation Murambatsvina in Zimbabwe in 2005. Around 20000 vendors were harassed, brutally tortured and arrested by the police. Harare was affected most. The vendors lost their vending sites and livelihood. Even bulldozers were used to destruct their sites and other assets (Skinner, 2007). The concept of space for street vending is another major concern. Most of the street vendors operate near public places like railway stations and market areas where they could find customers. In Bangkok, the problem is with the space. There are some authorised areas allotted to street vendors. But this is too small to accommodate all street vendors. As a result most of the street vendors are operating in unauthorised areas and they are considered as illegal. In Bangladesh also, street vending is considered as illegal. The street vendors face harassment from the authorities and they are forced to pay bribes to the officials for their survival. There are some legal provisions for the street vendors in Sri Lanka. They are

allowed to trade on pavements by paying a daily tax to the Municipal Council. But if the municipal council feels that they are causing trouble to the general public, they will be evicted from the pavements despite of the legal statutes. In many cities street vending is regulated by issuing licence to the vendors. But very often the concerned authority will not issue the licence so that they can take bribes from the street vendors for not having licence. They can threaten the hawkers for not having a licence and they take bribes from the poor vendors. The vendors have little option than to pay the bribes so that they can carry out their trade and earn their livelihood. This is very much happening in the city of Mumbai. The authority includes police constables, the BMC staff and the Regional Transport Office (RTO) officials (Anjaria, 2006). Kolkata is not having a provision to issue licence for street vendors and street vending is considered as a non-bailable offence in the city. In Bhubaneswar, the street vending activity is regulated by the Orissa Municipality Act. The street vendors are given licences based on some conditions and if the prescribed conditions are not satisfied the licence will be cancelled . Like street vendors, the home-based workers also face a number of problems. In India, where there is a surplus of unskilled labour, piece rates to home-based workers are very low. Exploitation by the local employers is the beginning of the exploitation in the global value chain. Home-based workers have little access to the market and the final consumer.<sup>5</sup>

There is no doubt that the Unorganised sector workers face a number of difficulties which are very peculiar sometimes. The hardships of the urban Unorganised sector workers are even more. They have no social security and no job security. Their income is very low to support the entire family. As a result, the entire family including the children are forced to engage in work to earn their livelihood. They have a precarious livelihood. The

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<sup>5</sup> (NCEUS, 2007).

conditions of the workplace are another major area of concern. The home based workers and street vendors face a lot of difficulties at their workplace. The home based workers are the most invisible section of the Unorganised sector workers as they operate from their homes. Most of the times, the entire family will be staying in a small room which includes the kitchen. They have difficulties in allotting space for work also in that small room. Sometimes a group of ten or fifteen workers used to sit together in a single room, which is very often arranged by a middle man between the employer and the workers, and work from there. This room may not be properly ventilated and there may not be any toilet attached to the room. This makes them work in a bad condition. The difficulties faced by street vendors are even worse. They are forced to pay bribes to the officials as street vending is considered to be an illegal activity. They are blamed for creating nuisance in the society with their valuable presence on the roads which ensures security to the pedestrians and shop owners. They are harassed and exploited despite the facts that they contribute to the national economy and provide goods at a reasonable rate at convenient locations for the customers.

The women workers in the informal workers also face a number of difficulties in particular. First of all, in many cases, they are not considered as workers which make their income very low when compared to the earnings of the male workers. Often they are considered as workers which are traditional and low skilled according to the requirements of the market. This again brings their wages to a further low. They also have to take care of their children at home and at the same time have to work to support their families. In fact, they are doing double the amount of work and paid less than half when compared with their male counter parts. The women who are engaged in domestic work and street vending face difficulties such as sexual harassment and abusive language. Domestic workers have to work in three to five houses per day without any offs or bonus or

overtime wages to earn a meagre income. The women allotted space to do their business in the first case. The conditions of the women workers in the home based operations are not better than this.

The agricultural labourers also face a number of problems. Lack of credit is one of the major problems faced by such workers. Farmers need credit to maintain the subsistence levels and also for production purposes to meet the increasing costs of cultivation. Increasing indebtedness is one of the major reasons for the increasing farmer suicides. In addition to that, landless and poor tenants continued to lease-in land, but remained unrecorded tenants, without security of tenure and without the benefit of rent regulation<sup>6</sup>.

The Unorganised sector workers lack social security. There is no job security for them. They will be in big trouble whenever they are in need of medical aid as they are not covered by insurance. There is no pension or any other benefit for them. Above all, they are not full unionised which in turn reduces their collective bargaining power. Lack of proper unionisation is visible in almost all the sections of informal work (NCEUS, 2007 and Chen, 2002).

### **Problems Faced by the Women Workers in the Unorganised Sector**

As mentioned earlier, a large number of women are working in the Unorganised sector. They face a number of problems also. In India, the patriarchal society imposes a lot of restrictions on women. This causes less freedom for women in the society and exploitation at the work place. Women face sexual harassment and the pressures of the family responsibilities together at the work place. Street vendors usually face this problem. Ill behaved men used to harass them by passing rude comments. Another major issue for the women vendors is the absence of toilets near the work place. This will in

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<sup>6</sup>(NCEUS, 2007)

turn lead to various diseases especially urinary infections. Women domestic workers also face similar problems. They face sexual harassment and many a times their working conditions are very bad. Migrant domestic workers face such difficulties in a more intense manner. Sometimes the recruiting agents compel the women to engage in sex work. Also they are paid very less and due to the lack of bargaining power, they are not in a position to demand more. They are replaced frequently, in case of better wage demands, as they are in surplus in the market. The women working in the clothing industry in South Africa are also Unorganised sector workers. This kind of informalisation enhances the profitability by avoiding state-imposed controls on hiring and firing. The working class women are most likely to be in low-wage and low skilled category. They are not unionised. They are engaged in unregulated and flexible jobs which are least visible and they face various difficulties as they operate from homes. Most of them were formal clothing sector employees earlier. They lost their jobs when the factories were closed down. Some women are engaged in this type of informal work<sup>7</sup>

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<sup>7</sup> Abdul Majid- Legal Protection to Unorganised Labour

## **4. Unorganised Sector and Legal Regimes**

India has a long tradition of social security and social assistance directed particularly towards the more vulnerable sections of society. The institution of self sufficient village communities, the system of common property resources, the system of joint families and the practice of making endowments for religious and charitable provided the required social security and assistance to the needy and poor of the nation. In fact, the caste and religion based institutions also played significant role in providing the needed support to the weaker sections of the selected castes and group of people. These informal arrangements of social security measures underwent steady and inevitable erosion in the wake of industrialisation and urbanisation.

During the British rule the policy was to provide assistance only to the employees of the company or the government, basically to promote the commitment and loyalty of the workforce and as a part of non-union strategy. Only during the post- independent period, the welfare dimension gained relevance and importance. However, even after independence, the State was concerned more with the problems of industrial (organised) work force and neglected the rural labour force on social security matters to a greater extent, till recent past.

It is rightly true that when independent India's Constitution was drafted, social security was specially included in List III to Schedule VII of the Constitution and it was made as the concurrent responsibility of the Central and State Governments. A number of Directive Principles of State Policy relating to aspects of social security were incorporated in the Indian Constitution. The initiatives in the form of Acts such as, the Workmen's Compensation Act (1923), the Industrial Dispute Act (1947), the Employees State Insurance Act (1948), the Minimum Wages Act (1948), the Coal Mines Provident

Funds and Miscellaneous Provisions Act (1948), the Employees Provident Fund and Miscellaneous Provisions Act (1952), the Assam Tea Plantations Provident Funds/Scheme Act (1955), the Maternity Benefit Act (1961), the Seamen's Provident Fund Act (1966), the Contract Labour Act (1970), the Payment of Gratuity Act (1972), the Building and Construction Workers Act (1996), etc reveal the attention given to the organised workers to attain different kinds of social security and welfare benefits. Needless to state that the benefits arising through these initiatives are meant for (a) employees of the Central and State Governments, local bodies, including universities and aided educational institutions, (b) Public sector establishments, under both the Centre and States, including mines, railways, ports and docks, air corporations, banks, insurance companies, electricity Boards, road transport undertakings, manufacturing units, trading concerns, service industries, etc. (c) employees in organised private sector establishments in industries as in cotton textiles, jute, silk and art silk, cement, engineering, chemical, electronics, transport, construction, services and so on. Though it has been argued that the above Acts are directly and indirectly applicable to the workers in the unorganised sector also, their contribution is negligible to the unorganised workers.

### **The Minimum Wages Act, 1948**

The Minimum Wages Act, 1948 provides for the fixation and enforcement of minimum wages in India. It prevents the labour from exploitation through payment of low wages. The Act offers a minimum subsistence wage for the workers. The national floor level minimum wage from November 2009 is Rs.100/- which has been increased from Rs.80/- in 2007. The minimum wages for the semi-skilled and unskilled labourers in Maharashtra are Rs. 145/- and Rs.141/- respectively in the year 2009 . But still the minimum wage is far less than these levels. One of the major reasons for this unions that collective bargaining and wage negotiations can be done. Another important aspect is that the union

gives it members respect and an identity in the society. The employers may not be concerned of an individual employee, but they may consider the union and its strength. So the employers may hesitate to cheat the workers who are union members. In the case of domestic workers, if they are unionised the workers will be able to take a day off in a week and the union may be able to provide somebody else in place of her for ensuring an uninterrupted service. The customers will be happy in such cases and the payment to the alternative worker can be done through the Union. In addition to that, a minimum wage for the domestic additional service charge if the customer needs service on Sundays also. The surplus labour in the informal economy gives a choice to the employers and this causes the workers that the issue could be solved.<sup>8</sup>

### **MINISTRY OF LABOUR & EMPLOYMENT**

The Ministry of Labour is also operating Welfare Funds for some specific categories of workers in the unorganised sector like beedi workers, cine workers and certain non-coal mine workers. The funds are used to provide various kinds of welfare activities to the workers in the field of health care, housing, education assistance for children, water supply etc. Governments and registration of beneficiaries under the Fund and provision for their identity cards etc. These legislations provide for regulating the employment and conditions of service, safety and health and welfare measures for the construction workers by setting up a Welfare Fund at the State level to be financed by contribution made by beneficiaries, levy of cess on all construction works at rates between 1 to 2% of the construction cost incurred by an employer (the Government has notified the cess @1%). The Fund is to be used for providing financial assistance to the families of beneficiaries in

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<sup>8</sup> Dr. V.G. Goswami- Labour & Industrial Laws (2010)

case of accident, old age pension, housing loans, payment of insurance premia, children's education, medical and maternity benefits, etc.

Most of the State Governments and Union Territories have constituted State Welfare Boards. The Government of Tamil Nadu has been implementing its own Act. Government of India notified the cess @ 1%.

In keeping with the commitment of the Government towards unorganised sector workers, the **“Unorganised Sector Workers’ Social Security Bill, 2007”** was introduced in the Rajya Sabha on 10th September 2007. This Bill was referred to Parliamentary Standing Committee on Labour. The Committee submitted its report on 03.12.2007. The Standing Committee recommended certain modifications. On the basis of the recommendations of the Standing Committee, the Government moved official amendments. The amendments, inter-alia, include change in the title, definition of unorganized worker, inclusion of grievance redressal, inclusion of MPs in National Board and Members of State Legislature in State Board and insertion of new section for setting up of Workers Facilitation Centres. The Bill has been passed by both the Houses of Parliament. The salient features of the Bill are as under :

Section (2) provides for the definitions, including those relating to unorganised worker, self-employed and wage worker.

Section 3 (1) provides for formulation of schemes by the Central Government for different sections of unorganised workers on matters relating to (a) life and disability cover; (b) health and maternity benefits; (c) old age protection (d) any other benefit as may be determined by the Central Government.

Section 3 (4) provides formulation of schemes relating to provident fund, employment injury benefits, housing, educational schemes for children, skill upgradation, funeral assistance and old age homes by the State Governments.

Section 4 relates to funding of the schemes formulated by Central Government.

Section 5 envisages constitution of National Social Security Board under the chairmanship of Union Minister for Labour & Employment with Member Secretary and 34 nominated members representing Members of Parliament, unorganised workers, employers of unorganised workers, civil society, Central Ministries and State Governments.

The National Board, would recommend the Central Government suitable schemes for different sections of unorganised workers; monitor implementation of schemes and advise the Central Government on matters arising out of the administration of the Act.

Section 6 has provision for constitution of similar Boards at the State level.

Section 7 relates to funding pattern of the schemes formulated by the State Governments.

Section 8 prescribes record keeping functions by the District Administration. For this purpose, the State Government may direct (a) the District Panchayat in rural areas; and (b) the Urban Local Bodies in urban areas to perform such functions.

Section 9 provides for setting up of Workers' Facilitation Centre to (a) disseminate information on social security schemes available to them (ii) facilitate registration of workers by the district administration and enrollment of unorganised workers.

Section 10 provides for eligibility criteria for registration as also the procedure for registration under the Act.

Sections 11-17 contain miscellaneous provisions for implementing the Act.

Apart from the above, a Health Insurance Scheme namely, the ‘Rashtriya Swasthya Bima Yojana’ for BPL families ( a unit of five) in Unorganised Sector was formally launched on 1st October, 2007. The scheme became operational from 1st April, 2008 and benefit under scheme started accruing to the beneficiaries. The benefits under the scheme include :

- (i) Smart card based cashless health insurance cover of Rs. 30,000 to a BPL family of five.
- (ii) All pre-existing diseases to be covered
- (iii) Hospitalisation expenses, taking care of the most of the illnesses.
- (iv) Transportation cost of Rs. 100 per visit with an overall limit of Rs. 1000/ - per annum.

22 States/ Union Territories have initiated the process to implement the scheme. Out of these 22 States/UTs , 17 States namely Rajasthan, Haryana, Punjab, NCT of Delhi, Gujarat, Bihar, Himachal Pradesh, Kerala, Maharashtra, Tamil Nadu, Uttar Pradesh, Jharkhand, Uttarakhand, West Bengal, Goa, Nagaland and Chandigarh Administration have started issuing smart cards and more than 39.71 lakh cards have been issued in these States providing the health insurance cover to more than 1.98 crore persons. Nagaland is the first State in the North East States to issue smart cards. Remaining States except Arunachal Pradesh, Madhya Pradesh and Andhra Pradesh are also in the process of implementation of the scheme.”<sup>9</sup>

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<sup>9</sup> DR. BALWINDER SINGH -WORKER’S LIFE, WORK AND DECENCY  
NEEDED REGULATORY MEASUR

## **THE BUILDING AND OTHER CONSTRUCTION WORKERS**

The construction workers constitute one of the largest categories of workers in the unorganized sector. The Government has enacted the following two legislations for the construction workers: -

The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996.

The Building and Other Construction Workers' Welfare Cess, Act, 1996;

Further, the Building and Other Construction Workers (RECS) Central Rules, 1998 have been notified on 19.11.1998.

The Act is applicable to every establishment which employs 10 or more workers in any building or other construction work and to the project cost of which is more than Rs.10 lakh. The Act provides for constitution of Central and the State Advisory Committees to advise the appropriate Governments on matters arising out of administration of the legislation besides constitution of Welfare Boards by the State.

Although not much has been done in providing social security cover to the rural poor and the unorganised labour force, the country has made some beginning in that direction. Both the Central and State Governments have formulated certain specific schemes to support unorganised workers. The Old Age Pension Scheme (OAPS) was introduced in all the States and Union Territories. Kerala was the First State to experiment with the pension scheme for the agricultural workers in the year 1982, followed by Tamilnadu (1982). Andhra Pradesh (1983) introduced the OAPS to the landless agricultural workers.

The Government of Karnataka introduces the Asha Kiran Scheme (1983) to provide relief against death or loss of limbs due to accident to agricultural labourers and other labourers (aged 16-65) such as fishermen, beedi workers, washerman, cobblers, masons, goldsmiths, drivers of animal drawn vehicles, riksha pullers, etc.

The Government of Maharashtra introduced a pension scheme in 1980 to support the physically handicapped and economically weaker sections of the society. In addition to pension schemes, there were initiatives to provide death and retirement benefits for the artisans and skilled workers and insurance benefits to the unorganised sectors initiated in state level.

In order to evolve comprehensive legislation for workers in the unorganised sectors, various commissions and study groups were appointed. The First National Commission on Labour (1969) defined the unorganised workers and recommended the Minimum Wages Act to cover unorganised workers too. In 1984, the Economic Administration Reforms Commission constituted a 6-member working group on social security. The Working Group could not carry out detailed investigation. In August 1987, Government of India appointed a National Commission on Rural Labour to examine the national and regional problems pertaining rural labour in India. The Commission submitted its report in July 1991 and recommended old age pension, life insurance, maternity benefit, disability benefits and minimum health care and sickness benefits to all rural workers. The Second National Labour Commission constituted in 1999 submitted its report in 2002 and recommended an umbrella type legislation and drafted an indicative Bill also to provide protection to the workers in the unorganised sector. Based on the Commission's recommendations, the Government launched the 'Unorganised Sector Workers' Social Security Scheme, 2004' on pilot basis in 50 districts. The scheme provided three benefits such as, old age pension, medical insurance and accidental insurance. However, the

scheme was not found viable as it had no statutory backing, it was voluntary in nature and the contribution from the employers was not forthcoming. Moreover, given the size of the unorganised sector the magnitude of the problem is huge and the resource requirements are quite large.

The National Common Minimum Programme (NCMP) of the present government highlights the commitment of the government towards the welfare and wellbeing of all workers, particularly in the unorganised sector. The government constituted a National Commission for the Enterprises in the Unorganised Sector (NCEUS) under Chairmanship of Dr. Arjun Sen Gupta to examine the problems of enterprises in the unorganised sector and make recommendations to provide technical, marketing and credit support to these enterprises. The Commission was also to review the social security system available for the unorganised workers and make recommendations for expanding their coverage. The Commission presented its report on the Social Security for the unorganised sector workers in May 2006. Based on the committee's recommendations the government is in the process of enactment of Legislation (Bill) and formulation of social security schemes. Poverty Alleviation Programmes (PAP) and Employment Oriented Programmes initiated in India are primarily focused on developing rural labour and unorganised workers. These programmes improve the access of the poor to developmental programmes, use surplus labour for community asset formation and strengthen the position of the poor by providing assets and income. The first PAPs introduced were Small Farmers Development Agency (SFDA) and Marginal Farmers and Agricultural Labour Agency (MFAL). In 1980, Integrated Rural Development Programme (IRDP) was launched with the aim of helping the poor families to cross poverty line and enabling them to achieve sustain poverty eradication. Productive assets and inputs were provided through financial assistance by government subsidy and term credit from financial institutions. The

programme covered small and marginal farmers, agricultural labourers and rural artisans. In 1979, Training for Rural Youth for Self-Employment was introduced to provide technical and entrepreneurial skills to rural youth from families below poverty line to enable them to take up income generating activities.

To develop women and children in rural areas with a cooperation of UNICEF a special programme named Development of Women and Children in Rural Areas (DWCRA) was started during 1982-83. As an effort towards employment security National Rural Employment Programme (NREP) was launched during the sixth plan (1982-85). In 1983, Rural Landless Employment Guarantee Programme (RLEGP) was introduced to ensure employment generation of hundred days in a year in the rural landless households. By replacing the NREP and RLEGP Jawahar Rozgar Yojana (JRY) was launched in 1989. In the same year Nehru Rozgar Yojana (NRY) also got launched with a target towards persons living below the poverty line in Urban areas. There are several other programme such as Drought Prone Area Programme (DPAP), Desert Development Programme (DDP), Hill Area Development Programme (HADP) and North-East Council (NEC) were also launched with similar objectives of developing weaker sections of selected areas.

In addition to the Central assisted programmes, State-level initiatives for poverty alleviation and employment generation were initiated towards unorganised workers. For instance in Tamil Nadu old age pension is available to (a) aged poor who are 65 year and above (b) destitute and physically handicapped, (c) destitute widows d) destitute agricultural labourers and (e) destitute/ deserted wives. Under the Annapurna Scheme, food grains are distributed to the destitute/ senior citizens covered under the National Old Age Pension Scheme. The beneficiaries are given 10 kgs. of rice per month at free of cost.

*The State of Goa has enacted the Goa Employment (Conditions of Service) and Retirement Benefit Act, 2005.* According to this act the employers is required to issue social security cards to the workers engaged by him in both the organised and unorganised sectors. West Bengal Government introduced a State Assisted Scheme of Provident Fund for unorganised workers in 2001. Tripura Government also introduced the similar Provident Fund programme in 2001. In the State of Punjab, in addition to old age pension scheme, financial assistance to women and destitute women, dependent children and disabled persons are also made available. Similar such State level initiatives are carried out in Kerala, Bihar, Uttar Pradesh, Madhya Pradesh, Haryana, Gujarat and other states.

The involvement of Non-Governmental Organisations (NGOs) in the social security of unorganised workers could not be ignored. A large number of voluntary and people's organisations are directly involved in providing protective social security to workers and their families in the unorganised sector. The services provided by the NGO's include access to micro- credit, housing, preventive health care and employment. The NGO's support to unorganised workers is carried out in two ways. Firstly, the NGO's use their own funds and the aids obtained from other agencies (domestic and international donors) and implement several projects and schemes to the targeted people who are basically weaker and vulnerable sections of the community. Secondly, they serve as an intermediary between the formal provider (say, Government) and the community, and help in routing the services to the needy.

. It is estimated that the NGO's could cover only 3 to 4 per cent of the total workforce in the unorganised sector.<sup>10</sup>

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<sup>10</sup> DR. BALWINDER SINGH -WORKER'S LIFE, WORK AND DECENCY  
NEEDED REGULATORY MEASUR  
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## **5. SUMMARY AND CONCLUSION**

In the above discussion, an attempt has been made to understand the nature and growth of unorganised workers, the initiatives of social security towards unorganised workers and to highlight the needs of the unorganised workers on social security aspects.

It was also observed that the unorganised workers would expand further due to globalization. India had a long tradition of social security and social assistance system directed particularly towards the more vulnerable sections of society. The institution of self sufficient village communities, the system of common property resources, the system of joint families and the practice of making endowments for religious and charitable provided the required social security and assistance to the needy and poor of the nation. These informal arrangements of social security measures underwent steady and inevitable erosion. Even after independence, the State was concerned more with the problems of industrial and organised work force and neglected the rural and unorganized labour force on social security matters to a greater extent, till recent past.

The social security initiatives of the Centre, State and NGO's indicated that the needs are much more than the supports provided and the efforts must be targeted and vast enough to cover the growing unorganised workers. In this context, it is observed that the major security needs of the unorganised workers are food security, nutritional security, health security, housing security, employment security, income security, life and accident security, and old age security. In sum, the study calls for a Comprehensive, Universal and Integrated Social Security System for the unorganised workers in India.

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