

UNORGANISED LABOUR -ISSUES AND CHALLENGES

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ABSTRACT

The term labour denotes any physical or mental work done with the object of obtaining consideration. Playing a game is also physical as well as mental work, but it is for the enjoyment, so it cannot come within the purview of labour. The unorganised sector is known by different terms such as informal sector, residual sector. It is also termed as unregulated sector. This implies that informal workers are beyond any regulation or legislations passed by the Government. Hence, their working status is rarely covered by the legal status. The welfare as well as social security benefits available under the countries welfare and social security legislations like Factories Act, 1948, Provident Fund Act, 1952, Employees State Insurance Act, 1948, The Maternity Benefits Act, 1961, The Payment of Gratuity Act, 1972, etc., do not reach to these unorganized labour. These Acts apply only those factories or establishments which fulfill certain minimum number of workers employed by them. This sector suffers absence of social security and welfare measures, negation of social standards and worker rights, denial of minimum wages and so on, poor human capital base (in terms of education, skill and training) and lack of commitment from the government. The alarming expansion of informal sector in recent times has aggravated the injuries what they are already suffering from. How long the battle for food, nutrition, health, housing, employment, income, debt bondage, life, accident, old age, etc., to be fought only God knows.

The term labour denotes any physical or mental work done with the object of obtaining consideration is labour. Playing a game is also physical as well as mental work, but it is for the enjoyment, so it cannot come within the purview of labour. According to Marshall, "any exertion of mind or body under gone to partly or wholly with a view to some good other than the pleasure derived directly from the work is called labour".ⁱ It includes not only labour that results in the permanent form, but also that renders services which perish in the act.ⁱⁱ Here the word labour is used for the worker who is engaged in production process.

This paper is going to deal with the issues and challenges of unorganized labour. It refers to the labour engaged in unorganised sector. Unorganised worker means a home-based worker, selfemployed worker or a wage worker in the unorganised sectorⁱⁱⁱ. The most probably agricultural labourers, bonded labourers, migrant workers, contract and casual labourers, toddy tappers, scavengers, carriers of head loads, drivers of animal driven vehicles, loaders and unloaders, midwives, domestic workers, fishermen and women, barbers, vegetable and fruit vendors, news paper vendors, 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, small and marginal farmers, landless agricultural labourers, share croppers, fishermen, those engaged in animal husbandry, beedi rolling, labelling 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. can be covered under this category.

The unorganised sector is known by different terms such as informal sector, residual sector. Unorganised is not a particular, or an independent and exclusive sector but it is a combination of various sectors in which labour is unorganized. National Commission for Enterprises defines it as: "The unorganised sector consists of all unincorporated private enterprises owned by individuals or households engaged in the sale and production of goods and services operated on a proprietary or partnership basis with less than ten total workers".^{iv}

It is also termed as unregulated sector. This implies that informal workers are beyond any regulation or legislations passed by the Government. Hence, their working status is rarely covered by the legal status. The welfare as well as social security benefits available under the countries welfare and social security legislations like Factories Act, 1948, Provident Fund Act, 1952, Employees State Insurance Act, 1948, The Maternity Benefits Act, 1961, The Payment of Gratuity Act, 1972, etc., do not reach to these unorganized labour. These Acts apply only those factories or establishments which fulfill certain minimum number of workers employed by them. A large number of statutes and schemes addressed to different categories of workers are found neither feasible nor practicable. Not only that they are not receiving minimum wages

prescribed under the Minimum Wages Act, 1948 and timely payment of wages as provided under the Payment of Wages Act, 1936. Very negligible numbers about 0.4% of the unorganised workers in unorganised sector are receiving benefits like provident fund, gratuity, etc., and this proportion has not changed till today.

There are so many demerits of this sector, but, it has its own merits as there is consistent growth rate in employment. This sector plays pivotal role in the Indian economy, it needs special attention. Vast discrimination prevails between the workers of organized and unorganized sector in the matter of wages, welfare and social security measures available under labour laws, bargaining capacity, working hours, employer-employee relationship, unfair labour practices, etc.

Hence, objectives of the study are:

- 1) to study the issues and challenges faced by the unorganised workers;
- 2) to identify the areas where these unorganized labour force are found;
- 3) to identify the matters where differential treatment prevails with these force;
- 4) to examine the provisions of the laws which give differential treatment to these class of workers;
- 5) to investigate where the problems lies;
- 6) Is there any solution to overcome this problem?

Hypotheses drawn for this problem of study are:

- 1) There are so many issues and challenges in this sector;
- 2) Unorganised sector is an employment generating sector;
- 3) Low wages and poor bargaining capacity prevails;
- 4) Jobs are insecure; less job satisfaction;
- 5) No social security or welfare measures available;
- 6) No union or government machineries take care;
- 7) Differential treatment prevails in certain labour laws;
- 8) No political will or commitment;
- 9) There is no solution in near future;

Collection of Primary Data

The scholar has conducted a sample survey for collecting the data related to the issues and challenges of these unorganized workers (respondents). Five (5) respondents were randomly selected from fifty (50) categories of the unorganized workforce as discussed earlier and total were 250. Because some of them being outsiders, from rural areas, from remote areas, tribal areas, most of them were illiterate and not able to read the questions mentioned in the questionnaire, the scholar decided to collect the information through interview only. The survey was confined to the Rajkot urban, semi-urban and village area of Gujarat State.

Major Issues and Challenges found during the course of study and interviews of the respondents are as under:

- 1) Omnipresence;
- 2) Migratory character;
- 3) Absenteeism;
- 4) Excessive seasonality of employment;
- 5) Temporary and part-time employment;
- 6) No employment guarantee;
- 7) Low productivity syndrome;
- 8) Primitive production technology;
- 9) Stratified on caste and community base in rural areas;
- 10) No unionism;
- 11) Poor bargaining capacity;
- 12) More working hours;
- 13) No leave or leave with wages;
- 14) No maternity leave or benefits;
- 15) No social security or welfare benefits;
- 16) Lower wages - denial of minimum wages;
- 17) Poor working conditions;
- 18) No formal employer-employee relationship;

- 19) Feudal production relations;
- 20) Debt bondage is very common;
- 21) Health hazards exist in a majority of occupations
- 22) Uncontrolled and unregulated employment conditions;
- 23) Inadequate and ineffective labour laws;
- 24) Poor human capital base in terms of education, skill and training;
- 25) Subject to all types of exploitations, etc.

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Looking to the number of issues identified above, hypothesis no. 1 proved to be true.

Before discussing the issues of unorganised labour force, one must have statistical information regarding the number of work force engaged in this sector, so the gravity of the problem can be judged. If the number is high the problem will naturally be high. As discussed earlier, various types of workers come under this category; because of being in a scattered form determination of their quantum is very difficult. Its extent, intensity and accuracy vary significantly in area to area and place to place. As per the National Sample Survey Organisation in the year 2009-2010, the total employment in both organised and unorganised sector in the country was about 46.5 crore. Out of this, about 2.8 crore were in the organised sector and the balance 43.7 crore in the unorganised sector. It means that more than 93% labour force is in this sector. Workers in agricultural sector are 24.18, significantly high than other unorganized sectors. 4.4 crore in construction, and the remaining were in manufacturing activities, trade and transport, communication and services. A large number of unorganised workers are home based workers and are engaged in occupations such as beedi rolling, agarbatti making, pappad making, tailoring, and embroidery work^v. More than 90% of workforce and about 50% of the national product are accounted by the informal economy. A high proportion of socially and economically underprivileged sections of society are concentrated in the informal economic activities^{vi}. According to National Sample Survey Organization (NSSO), 30 million workers in India are constantly migrating from one place to another. The women workforce is continuously increasing from the year 2000 onwards. Every day 13000 Indians turn 60 years and they are expected to live another average of 17years. Unfortunately only 10% of the Indians save for old age. The tragedy is that the existing social security legislations cover only 8% of the total work force in India. Their future is very dark. The report of the NSSO in 2011 very clearly shows that there is significant increase in the number of casual workers and decline in the number of regular workers. The unorganised employees do not enjoy the same benefits and security as tenured employees. All daily wage employees and some categories of contract employees are casual labourers. This report also reveals that there is a substantial shift in the structure of the labour force which can be broadly divided in to self employed, regular, and casual workers. It clearly indicates that labour market of India has been undergoing tremendous transformations, including growth of informal sector activities, deterioration in the quality of employment (in terms of job security, terms and conditions at work). Weakening of worker organizations and collective bargaining capacity leads to differential treatment with organized work force. All these may be due to the changing policy of the Government's liberalization, privatization and globalization process.

The country is currently in a phase of "informalisation of the formal sector", where the entire increase in the employment in the organized sector over this period has been informal in nature and a gradual decrease in formal employment in the country^{vii}. Considering the number of unorganized labour force gravity of issues and challenges become more difficult to tackle in near future. Each and every respondent were complaining that there is no body to look after them. Neither Government nor non-government agencies are taking cognizance of their burning issues. There is no adequate legal protection or policies of the government which may look after their problems. They are left at the mercy of God. Hypotheses no. 6, 7, 8, and 9 proved to be true. Although National Rural Employment Guarantee Act -2005 (NREGA), proved to be little bit useful but it provides only hundred day's work for those registered worker under the Act. The National Food Security Act, 2013 (NFSA 2013) has supplemented the daily food and nutrition requirement of poor labour who are not in a position to earn their basic minimum requirements. The NFSA recognizes maternity entitlements; the Midday Meal Scheme; Integrated Child Development Services Scheme and Public Distribution System. PDS is going to cover about two-thirds of the population (75% in rural areas and 50% in urban areas) which is to provide rice, wheat and coarse grains at subsidized rate. Pregnant women and lactating mothers are entitled to a nutritious "take home ration" of 600 Calories and a maternity benefit of at least Rs 6,000 for six months; Children 6 months to 14 years of age are to receive free hot meals or "take home rations";

The informal sector in India suffers from a low productivity syndrome, compared to the formal sector. They receive wages much below than that in the formal sector, even for closely comparable jobs. Their working conditions are very poor and terms of employment also inferior. Nobody or institution is there to take care of them. Being in scattered form union activity does not flourish. Government machineries do not reach there. Temporary and part-time employment, having excessive seasonality of employment (especially in the farm sector), casual and contractual employment, and no job security prevails. No PIL and no judicial activism.

Production systems are becoming increasingly a typical and non-standard, they do not permit or encourage the workmen to imbibe and assimilate higher technologies and better production. Large scale ignorance, illiteracy and limited exposure to the outside world further leads to the vulnerability and subjected to every type of exploitations. Before independence there were few labour laws inter alia, Indian Trade Union Act, 1926, Workmen's Compensation Act (1923), Payment of Wages Act, 1936, Employers' Liability Act, 1938, Industrial Employment (Standing Orders) Act, 1946, Bombay Industrial Relations Act, 1946, etc. Concept of social security was the important aspect of freedom movement. Therefore it 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. After independence the initiatives which were taken in the form of Acts such as the Industrial Disputes 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 Maternity Benefit Act (1961), the Seamen's Provident Fund Act (1966), the Contract Labour (Abolition and Regulation) Act (1970), The Payment of Gratuity Act (1972), the Building and Construction Workers Act (1996) etc. reveal that more attention is given to the organized workers to attain different kinds of social security and welfare benefits than unorganized workers. It has been argued that the above Acts are directly or indirectly cover the workers in the unorganized sector also but their contribution proved to be very negligible in context of the unorganized workers. Most of the social security and welfare laws remained ineffective due to their eligibility criteria. The recent Unorganized Sectors' Social Security Act (2008), actually, suffers from a serious lack of legislative policy and intent. It has neither the capacity to address nor the inbuilt provision to provide solutions to the needs of the unorganized sector. It seems to be a paper solution only.

It can be concluded from the above findings that this sector suffers absence of social security and welfare measures, negation of social standards and worker rights, denial of minimum wages and so on, poor human capital base (in terms of education, skill and training) and lack of commitment from the government. The alarming expansion of informal sector in recent times has aggravated the injuries what they are already suffering from. How long the battle for food, nutrition, health, housing, employment, income, debt bondage, life, accident, old age, etc., to be fought only god knows.

ⁱ Marshall, A.: "Principle of Economics", (1961), p. 54.

ⁱⁱ Nicholson: Elements of Political Economy", p. 30

ⁱⁱⁱ Section 2(m) of the Unorganised Workers' Social Security Act, 2008

^{iv} National Commission for Enterprises in the Unorganised Sector, Report on Condition of Work and Promotion of Livelihoods in the Unorganised Sector, 2007, p.3.

^v Government of India, Ministry of Labour and Employment, Annual Report 2014-15, p. 65.

^{vi} Government of India Report on Employment-Unemployment survey, Vol. I, Ministry of Labour and Employment, (2013-14) p.5.

^{vii} NSSO Employment Data for 55th and 61st Rounds (for 1999-2000 and 2004-05 respectively) the NCEUS (2007)