

**A STUDY ON LABOURS AND THEIR PROBLEMS IN  
UNORGANISED SECTOR OF INDIA**

**A DISSERTATION TO BE SUBMITTED IN PARTIAL  
FULFILMENT OF THE REQUIREMENT FOR THE AWARD  
OF DEGREE OF MASTER OF LAWS**

**SUBMITTED BY**

**[MAYANK KUMAR]**

**[1200990013]**

**SCHOOL OF LEGAL STUDIES**

**UNDER THE GUIDANCE**

**OF**

**[MS. SONALI YADAV]**

**[ASSISTANT PROFESSOR]**

**SCHOOL OF LEGAL STUDIES**



**BBD UNIVERSITY**

**SESSION 2020-21**

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Date 6-6-2021  
Place- Lucknow

**MS. SONALI YADAV**  
Assistant Professor  
BBDU (SoLS)

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**Place- Lucknow**

**MAYANK KUMAR**

1200990013

LL.M. (2020-21)

(CCL BRANCH)

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(MAYANK KUMAR)

Roll No. 1200990013

School of Legal Studies,

Corporate and Commercial Law,

BBDU

## **LIST OF ABBREVIATION**

<b>NSSO</b>	National Sample Survey Organisation
<b>NCEUS</b>	National Commission for Enterprises in unorganised sector
<b>ILO</b>	International Labour Organisation
<b>GDP</b>	Gross Domestic Product
<b>ICLS</b>	International Conference of Labour Statisticians
<b>ESIC</b>	Employee state insurance corporation
<b>UWSSA</b>	Unorganised Workers Social Security Act
<b>MRD</b>	Market requirement Document
<b>CMIE</b>	Centre for Monitoring Indian Economy
<b>WEF</b>	World Economic Forum
<b>MSME</b>	Micro small and medium enterprises
<b>MGNREGA</b>	Mahatma Gandhi National Rural Employment Guarantee Act
<b>DBT</b>	Direct Benefit Transfer
<b>NBFC</b>	Non-Banking Financial Corporations
<b>APMC</b>	Agricultural Produce Market Committee
<b>PM-SYMY</b>	Pradhan Mantri Shram Yogi Mandhan Yojna
<b>PM-JJBY</b>	Pradhan Mantri Jeevan Jyoti Bima Yojna
<b>PM-SBY</b>	Pradhan Mantri Suraksha Bima Yojna
<b>PM-KISAN</b>	Pradhan Mantri Kisan Samman Nidhi
<b>DAY</b>	Deen Dayal Upadhyay Antyodaya Yojna
<b>ESI</b>	Employee State Insurance Act
<b>IGNOAPS</b>	Indira Gandhi National Older Age Pension Scheme

## **LIST OF CASES:**

1. Safai Karamchari Andolan and ors. v. Union of India and Ors.
2. Santhal Pargana Antyodaya Ashram v. State of Bihar and Others,
3. Union for Democratic Rights v. Union of India (AIR 1982 SC 1473)
4. Laxmi Dhar Kumbhar v. divisional Manager Orrisa, forest development corporation Ltd, at Budharaja Dist. Sambalpur
5. United India Insurance Company Limited Gulbarga v. Vijay Nath and others,
6. Jharkhand State Food and Civil Supplies Corporation Ltd. through District Manager, Dhanbad v. Devendra Parsad Yadav
7. Bhav Nagar Municipal Corporation etc v. Jadeja Govubha Chhanubha and Another,
8. Hemant Madhusudan Nirurkar v. State of Jharkhand and another,
9. Director General of Works, C.P.W.D. and Others v. Sushil Kumar and Others,
10. Rajamma K.T. Thrissur Dist., vs. Assistant Provident Fund Commissioner (Pension) Employees Provident Fund Organization, Ernakulam District and Another
11. Tata Tea Ltd. v. Inspector of Plantation, Kerala
12. Chandrabhaga Machindra Dudhade v. Mahatma Phule Karushi Vidhyapeeth, Ahmadnagar
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# CHAPTER 1

## INTRODUCTION:

### 1.1. Unorganised workers:

The Indian economy is characterised by the presence of a large percentage of unorganised or informal labour. According to a poll conducted by the National Sample Survey Organisation (NSSO) in 2009–10, the country's total employment was 46.5 crore, with roughly 2.8 crore employed in the organised sector and 43.7 crore employed in the unorganised sector. Out of all of these workers in the field, the agricultural sector employs 24.6 crore people, construction employs 4.4 crore, and manufacturing and service industries employ the rest.

Unorganized workers are people who work in the unorganised sector or in households, excluding regular employees who receive employer-provided social security benefits. According to the Economic Survey 2007-08, the self-employed make up 93 percent of India's workforce includes the self- employed and employed in unorganized sector.

Our Indian Constitution guaranteed all citizens of the country social, economic, and political justice, as well as freedom of thought, speech, belief, faith, and worship, as well as equality of status and opportunity, regardless of caste, creed, status, religion, race, sex, or work nature. However, in our country, the disparity between the organised and unorganised sectors is very great, making our system unfair in the eyes of the law. In India, the organised sector or formal sector refers to legal businesses that are registered and pay sales tax, income tax, and other taxes. Corporations, factories, shopping malls, hotels, and major enterprises are examples of publicly traded firms, incorporated or formally registered entities, corporations, factories, shopping malls, hotels, and huge businesses. All unlicensed, unregistered economic activity, such as owner-operated general stores, handicrafts and handloom workers, rural dealers, farmers, and so on, falls into the unorganised sector. An unorganised sector is one in which the elements of the organised sector are missing. We can define an unorganised sector as a segment of the workforce that has been unable to organise in pursuit of a common goal due to obstacles such as the informal nature of employment, ignorance and illiteracy, tiny firms with minimal

capital investment, per person employed, scattered nature of establishments, superior strength of the employer and so on. “The unorganized Sector consists of all private enterprises having less than ten total workers, operating on a proprietary or partnership basis.” There are a variety of terms used to describe the unorganised sector, including informal sector, informal economy, and even informal labour, all of which emphasise the most affected aspect of the sector, namely labour. “Informal labour is a labour whose use is not governed either by state regulations or by collective agreements between workers and employers.”

## **1.2. Social security for Unorganised Workers:**

The concept of social security has been very old one and it was coined for the first time when the United States Social Security Act, 1935 was enacted and later it was adopted by New Zealand in the year 1938. After that this concept received worldwide attention.

The basic goal of any plan for social security, according to the British definition, is insurance against interruption and destruction of earning ability, as well as particular expenditures coming from birth, marriage, or death.

In India social security provisions for protection in the form of employment security, economic security, medical & sickness benefit, maternity benefit, pension, life insurance, are the long felt needs of the unorganized labour, where the workers, at large, neither have access to these benefits nor have the statutory backing for their enforcement. Generally, social security is understood as any kind of security or collective measures designed to ensure the members of the society to meet their basic needs and to protect against contingencies, enabling them to maintain a decent standard of living. According to the various conventions and recommendations of International Labour Organization, social security is needed in case of contingencies like un-employment, medical care, maternity, maintenance of children, old age, invalidity and survival, and occupational health, etc. The vision for social security encompasses not merely poverty alleviation but also enhancement of quality of life, thus creating a hedge against social and economic uncertainty. According to Amartya Sen and Jean Dreze “the basic idea of social security is to use social means to prevent deprivation and vulnerability to deprivation”. Social Security is increasingly viewed as an integral part of the development process because it helps to create a more positive attitude to the challenge of globalization and the consequent structural and technological changes. It envisages that the employees shall be

protected against all types of social risks that may cause undue hardships to them in fulfilling their basic needs. The workers do not have enough financial resources to face such risks arising due to sickness, accidents, old age, diseases, unemployment, etc. and do not have alternative source of livelihood to help them in the period of adversity. Hence, it becomes the obligation of the State to help the workers by providing them the social safety measures. In India, On the recommendation of the 2<sup>nd</sup> National Labour Commission<sup>1</sup> the Unorganised worker Social Security Act, 2008 was enacted to provide social security to unorganised sector workers of India.

### **Constitutional provisions for social protection of Unorganised sectors:**

Indian Constitution contains all the ingredients obliging the State to move towards the realization of socio-economic rights in its preamble. The preamble expresses the ideology of the Constitution and states that India being a Sovereign, Socialist, Secular, and Democratic Republic is committed to secure to all its citizen; justice social, economic, and political, liberty of thought, expression, belief, faith and worship, equality of status and of opportunity, and to promote among them all fraternity assuring the dignity of individual and the unity of Nation. all the welfare and social legislations derive their strength from the Constitution. Fundamental Rights under Indian Constitution prohibit human trafficking, forced labour, child labour in hazardous industries and they recognize the right to form associations or unions, and the right of children to education. Further the “Directive Principles” of the Constitution lay down directions for the achievement of economic rights, although they are not justiciable, but are as important as the fundamental rights of individual. These are however to be followed by the Government in making laws. Within the limitations of its economic capacity and development, the Directive Principles require the state to provide appropriate means of subsistence. The state also has a responsibility to ensure that its inhabitants have access to job, education, and public

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<sup>1</sup> **Second National Labour Commission** has been constituted and submitted its report in the year 2002 to the Government of India. Report of the commission:

1. To suggest rationalisation of existing laws relating to labour in the organised sector, and
2. To suggest an umbrella legislation for ensuring a minimum level of protection to the workers in the unorganised sector.

assistance in cases of unemployment, old age, sickness, and disability, as well as other unjustified poverty. Directive Principles also cast a duty upon the State to make provisions for the ingredients of decent work in terms of conditions of employment and a living wage. The philosophy of the Constitution is the major source from which all social enactments derive their strength. So, in order to maintain the constitutional mandate on social justice and labour welfare, a plethora of social protection legislations have been enacted, both at the Central and State levels, which cater to different segments of the population. Thus, the provisions for social security have occupied a very important place in India. India being a welfare State has the prime responsibility to provide social security to its entire workforce.

### **Statement of problems:**

In unorganized sectors, employee has less facilities than the employees of organized sector. The office is dispersed and disjointed. There is no official link between the employer and the employee. The unorganised labour force in rural areas is strongly stratified based on caste and communal factors. While such issues are far less prevalent in urban regions, they cannot be completely dismissed because the majority of unorganised employees in metropolitan areas are primarily migrant workers from rural areas. Workers in the unorganised sector are frequently in debt and enslaved since their meagre wages are insufficient to cover their basic necessities. The unorganised labourers are disproportionately exploited by the rest of society. They have poor working conditions, with pay that are significantly lower than those in the formal sector, even for positions that are closely comparable in terms of labour productivity. Work status is of lower quality and terms of employment, both in terms of salary and employment. In the unorganised sector, primitive production technologies and feudal production relations are common, and they do not allow or encourage workers to ingest and assimilate higher technologies and improved production relations. The present study is made to understand the labour problems in unorganised sector of India and to know the welfare and social security schemes framed by government for overcome from such problems.

### **1.3. Objective of research:**

The study makes an earnest attempt by having the following as its objectives:

1. To study the problems faced by the laborers of unorganized sector in India.
2. To explore the steps taken by the Government of India to overcome from such problems.

3. To study the Welfare and Social Security Provisions for Unorganised Sector Workers.
4. To suggest some policy measures to solve the problems of unorganised workers.
5. To study the provisions of articles of our constitution for the welfare of the unorganised workers.
6. To study the policy of government and labour law for the protection of interest of the workers of unorganised sectors.

#### **1.4. Research Methodology:**

The descriptive and doctrinal methods of writing have been adopted. All research is the gathering of evidence or information for ascertaining an assumption or verifying some hypothesis. Research is a series which adds in the old, new suggestions and recommendations. Research is therefore an enquiry for the verification of a fresh theory or supplementing prevailing theories by new knowledge. No research can be purely new, as even original discoveries are an extension of the search already undertaken. A researcher is thus unavoidably burdened with the heritage of information already collected in his area of work. Endless desire to research impels the researcher to find new perspective in the present study. This study has made use of secondary data such as books, journals, reports, acts, articles, and internet to collect information with regards to problems of unorganized sector, Social Security Schemes and policy made by the government of India for the welfare of Workers in Unorganized Sector. In this research Descriptive and exploratory method is used to get the conclusion of the research.

#### **1.5. Hypothesis:**

- 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 prevail
- 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

### **1.6. Significance of study:**

The present study is going to highlight the following issues, which can help in identifying the real issues, which unorganized labour is facing.

1. It will help to identify the problems of unorganised labours
2. It will help to know about laws and regulations specially framed for them.
3. It will help to know the living and working conditions of the labours.
4. It will help to know about current social security and welfare schemes of the government.
5. It will help to know the number of welfare measures still need to be taken by employers/contractors and government

### **1.7. Review of Literature**

In order to understand the above raised questions properly, it will be proper to review the existing literature relating to the topic of the study. In the context of the present study, it is important to take cognizance of studies, related to research. So for the purpose of present study the following literature has been reviewed in detail. 17

#### **(A) Commissions' reports**

**(i) Report of the Royal Commission on Labour, 1929** From the beginning of history in India labour class was neglected and deprived of social and welfare measures. The then British India Government constituted the Royal Commission on Labour in 1929 to investigate and report on the current working conditions in British India's industrial undertakings and plantations, as well as the workers' health, efficiency, and standard of life, as well as employer-employee relations, and to make recommendations. The issues regarding health and welfare of the industrial worker, plantations workers, housing of the industrial worker, workmen's compensation, industrial disputes, and wages in plantations industry was also in the ambit of the study of this Commission. This Commission suggested and recommended for various provisions which were not only beneficial to organized workers but were equally beneficial to unorganized workers at that time. The Commission recommended the appointment of labour officer in

industrial establishment. Further the Commission advocated for the definite periods of leave with wages and job security, weekly limit of hours for perennial factories (54 hours in week and 10 hours in a day) the minimum rate for overtime, minimum wages, maternity benefits, reasonable sanitation and extension of Workmen's Compensation Act to cover completely organized industry.

**(ii) Report of National Commission on Labour, 1969** Before 1947, India was a police State and had a laissiz faire approach on the matters of labour welfare. But after the Independence, India became a socialist and democratic State. On December 24, 1966, the Government of India established a National Commission on Labour to examine changes in working circumstances since independence, to report on current working conditions, and to review existing legislation and other provisions designed to protect workers' interests. The Commission was also under an obligation to suggest the measure for improving conditions of rural labour and other categories of unorganized labour, the provisions relating to wages, the need for fixation of minimum wages, including the standard of living and the health, efficiency, safety, welfare, housing, training and education of workers. The existing arrangements for administration of labour welfare both at the Centre and in the States were also in the ambit of study of the Commission. On the matter of social security, the Commission recommends that the aim of Government should be to work gradually towards a comprehensive social security plan. The Commission successfully categorized the unorganized workers.

**(iii) Report of the National Commission on Labour, 2002** The National Commission on Labour was established by the Central Government in 2002 to address the difficulties that the Indian labour faces. The Government of India's resolution announcing the Commission's appointment assigned it two tasks: first, to identify ways to simplify existing labour rules in the organised sector and secondly to suggest an umbrella legislation for ensuring a minimum level of protection to the workers in the unorganised sector. The Commission could not provide the exclusive definition of unorganized workers. It outlined the pros and cons on social security for the unorganized workers. The Commission considers the need to ensure a minimum level of protection and welfare for workers, to improve the effectiveness of social security, workplace safety, and occupational health hazards measures, to pay special attention to the problems of women workers, minimum wages, and the evolution of a healthy wage-productivity relationship, and to improve the efficiency of the basic institutional framework which is necessary to ensure the protection and welfare of labour. Therefore, the Commission recommended the minimum level of labour protection and welfare measures.

**(iv) Reports of the National Commission for Enterprises in Unorganized Sector, 2006,** These reports highlights on the occupational characteristics, economic and social profile of the unorganized workers. In addition to it the importance and role of the unorganized workers in Indian economy has also been studied.

**(B) Books**

- I. **Meenakshi Gupta, Labour Welfare and Social Security in Unorganised Sector (2007).** The study of this book enlightened the concept of social security in a broad spectrum. The author of this book presumed that social security is a basic need of all people regardless of employment in which they work and live. It is an important form of social protection. In modern era social security is important tool to strike at the root of poverty, unemployment and disease.
- II. **Dr. U.N. SHUKLA & Dr. SANJAY TIWARI, Social Security Schemes in India (2012).** The writers express their views on social security in broader sense. The study of this book reveals that social security is multi-dimensional in its contents and in the present-day society it includes within its ambit and scopes the aspects of socioeconomic justice done to the members of the society. The researcher has got very valuable information on promotional and protective social welfare measures for labour particularly for unorganized labours.
- III. **ABDUL MAJID, Legal Protection to Unorganized Labour (2000).** The author has attempted to define the meaning of unorganized labour system which is in existence in one form or other in Indian society. The study of this book also throws the light on the historical evolution of unorganized labour system. This study makes researcher to able to understand the status of unorganized labours in ancient society.
- IV. **A.M. Sharma, Aspects of Labour Welfare and Social Security (2014).** The author highlights the new dimensions on the concept of social welfare in this book. In his view labour welfare may be viewed as a total concept, as a social concept and as a relative concept. The social concept is desirable state of existence involving the physical, mental, moral and emotional wellbeing.
- V. **Durga Das Basu THE INTRODUCTION TO CONSTITUTION OF INDIA (2018).** For the purposes of this study, it is vital to examine the fundamental assumptions that underpin the concept of social security. The entire study of the constitutional provisions on social security reveals that the Constitution, under which



India works, reflects the universal aspiration of Indian people to live in a society that is free, democratic, equalitarian, and nonexploitative.

- VI. **Kalyani (2015)** in this article author has analysed the condition of the unorganized workers who generally considered as the core strength of Indian labour force. It has been identified that majority of informal employment has been one of the central features of the labour market scenario in India now a days. By improving the security needs of the unorganised sector, such as food, nutrition, health, housing, employment, income, life and accident, and old age, the author proposes. The unorganised sector's exclamation continues to go unnoticed by the government.
- VII. **India Labour and Employment Report (2014)**, showed the labour market and employment condition in India. It has provided the analyses of the changes in the labour market and employment since the inception of economic reform.
- VIII. **Ministry of Labour & Employment, Govt of India report (2008)**, aims to study the working and living Conditions of Un-organized workers engaged in Leather Industry including Footwear and other Art Works in India. This survey aimed at studying the working and living conditions of workers engaged in the manufacture of Footwear and other art workers in the unorganized sector.

## CHAPTER 2

### UNORGANISED WORKERS: AN OVERVIEW

#### 2.1. Meaning of Unorganised worker:

Before the beginning of industrialization all workers were unorganized, and they were living a miserable life. In India before Independence (during colonial period) the State had operated *laissez faire* policy in the matters of labour. However, the then Government appointed the Royal Commission<sup>2</sup> to enquire into and report on the working conditions in British India's industrial operations and plantations, on the workers' health, efficiency, and standard of life, and on the employer-employee relationship, and to make recommendations. Unfortunately, this Commission covered the labours only who were working in the Factories or Industries. In 1946 a Labour Investigation Committee<sup>3</sup> was constituted for the same purpose, but both, in Commissions and Committee's reports, the unorganized workers of this country could not find any place. No words could be written for the welfare of the unorganized workers. After Independence in India, the First National Commission on Labour has tried to define the term 'unorganized worker' or 'informal worker' to some extent for the purpose of its report. According to the First National Commission on Labour, the unorganized workers are "the group of workers who cannot be defined by definition but could be described as those who have not been able to organize in pursuit of a common objective because of constraints such as (a) casual nature of employment, (b) ignorance and illiteracy, (c) small size of established with low capital investment per person employed, (d) scattered nature of establishments, and (e) superior strength of employer operating singly or in combination<sup>4</sup>. However, the Commission

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<sup>2</sup> The Royal Commission on Labour was constituted in 1929 by the then Government. The Viceroy of India, announced on January 28 at the opening of the Legislative Assembly that the King had approved of the establishment of a Royal Commission under the chairmanship of Mr. J.H. Whitley to enquire into the conditions of labour in India.

<sup>3</sup> The Tripartite Labour Conference passed unanimously the following resolution in September 1943; "This tripartite labour conference recommends that with a view to provide adequate materials on which to plan a policy of social security for labour, the Central Government in co-operation with the Government of Provinces of British India, Indian States and Chamber of Princes should immediately set up machinery to investigate questions of wages and earnings, employment and housing and social conditions generally, and that as soon as possible after receipt of required statistics and other data the Central Government should appoint a mixed committee to formulate plans of social security." In pursuance of this resolution the Labour Investigation Committee was appointed by Government of India in 1946.

<sup>4</sup> Government of India, Report: National Commission on Labour p.417 (Ministry of Labour & Employment and Rehabilitation, 1969).

doesn't Propose that every area of such employment be covered, with a focus on categories with a substantial number of workers and information about them available in some form.

The Second National Commission on Labour constituted by Government of India<sup>5</sup> does not provide any concise definition of unorganized worker. Its emphasis is only to define the unorganized sector or informal sector. To understand the definition of unorganized worker this Commission suggests only the identifiable characteristics of unorganized worker. It defines the unorganized worker in these words “unlike the organized sector, in this sector the workers do not acquire a high profile, tasted benefits that can be gained from organization, or derive the advantages flowing from high visibility. In the unorganized sector, this Commission was deal with workers who are engaged in a variety of occupations or employments, ranging from those like forest workers, tribal trying to follow traditional vocations within their traditional habitats, and fishermen who venture out to sea in vulnerable canoes, to those who are working in their homes with software, or assembling parts for a highly sophisticated product. Many of them are victims of invisibility. The laws or welfare systems that the Commission propose for them cannot be effective unless they themselves are conscious of the laws, and acquire the strength to ensure that laws are brought into force; unless there are effective means to implement, monitor and provide quick redress; unless breaches of the law are punished with deterrent penalties, and unless the organs of public opinion and movements and organisations mount vigil, and intercede to ensure that the provisions of the laws and welfare systems are acted upon”

Because the sector includes indigenous forest workers as well as home-based, infotech, and software workers, the Commission determined that it could not be characterised based on the nature of the work that workers or employees in the sector do. It can't be based on the number of employees in businesses because it includes agricultural workers, craftspeople, home-based workers, self-employed workers, weavers' cooperative workers, and workers in small-scale industries with a workforce that can be counted on one hand. On the matter of the definition of unorganised workers the Second National Commission on Labour, has adopted the same approach<sup>6</sup> as the First National Commission on Labour had. It also noted in its report that there are areas in the unorganised sector were identifying a 'employer' and thus an employer-employee relationship is difficult, which the law can attempt to channel or influence by

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<sup>5</sup> The Government of India in 2002 announced the appointment of this Commission. The Terms of References were as: (i) to suggest rationalization of existing laws relating to labour in the organized sector; and (ii) to suggest an umbrella legislation for ensuring a minimum level of protection to the workers in the unorganized sector.

<sup>6</sup> Government of India, Report: The National Commission on labour Ch.7.11 (Ministry of Labour & Employment, 2002).

defining rights and responsibilities and establishing a contributory social security system. A direct employer or a contractor could be designated as the construction workers or brick kiln worker's employer. However, no employer can be recognised for a fisherman who tosses his net into a pond or stream, or for a woman who spins, weaves, or keeps livestock at home and sells surplus milk to a co-operative or a neighbouring customer. This difficulty in determining an employer-employee connection has ramifications that the Commission must consider when formulating legislative and social security measures.

The National Commission for Enterprises in Unorganized Sector<sup>7</sup> in its report<sup>8</sup> defines the unorganized workers in these words; “unorganized workers consist of those working in the unorganized enterprises or households, excluding regular workers with social security benefits, and the workers in the formal sector without any employment or social security benefits provided by the employers.” The employees with informal jobs generally do not enjoy employment security (no protection against arbitrary dismissal) work security (no protection against accidents and illness at the workplace) and social security (maternity and health care benefits, pension, etc.) and therefore any one or more of these characteristics can be used for identifying informal employment.

### **Definition of unorganised sector and unorganised worker by 15th International Conference of Labour Statisticians:**

**Unorganised Sector:** ‘Every unorganised private enterprise owned by individuals and households engaged in the sale and production of products and services in a proprietary or collaborative manner, with less than ten employees, constitutes the unorganised sector.’

**Unorganised Workers:** “The unorganised labour force consists of people working in unorganised enterprises or households, excluding ordinary workers who get benefits under the social protection programme, who do not have access to employers' employment / social security services.

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<sup>7</sup> The Common Minimum Programme of the then Government, inter alia, has recognized as one of its basic principles of governance as the need to “enhance the welfare and well-being of farmers, farm labour and workers, particularly those in the unorganized sector and assure a secure future for their families in every respect.”

<sup>8</sup> Government of India, Report on Conditions of Work and Promotion of Livelihoods in the Unorganized Sector, para 1.13 (National Commission for Enterprises in the Unorganized Sector, 2007)

## **Definition of unorganised sector and unorganised workers under the Unorganised Workers Social Security Act, 2008:**

**Unorganised Sector:** It refers to a firm owned by individuals or self-employed employees that manufactures or sells products or provides a service and employs fewer than ten people.

**Unorganised Workers:** It comprises a house-based worker, an independent worker, or an unorganised sector wage-earner who is not subject to any of the acts listed in Schedule II of the Act.

### **2.2. Unorganised Workers: Historical Background**

The unorganized labour has a long history of its existence. Unorganized labour system is a universal concept which has got its origin in socio-economic structure of all ancient civilization. Unorganized labour system is not new for India. In India its origin can be traced in ancient customs, traditional value of historical past. In the Hindu caste structure, out of four main caste or Varna's (Brahman, Kshatriya, Vaishya, and Sudra) the Sudras, were always treated as lowest and were subjected to the atrocities by the higher caste. All the menial jobs were done by them and the slaves also belonged to this category and they were hated and discarded by the higher caste persons. It is obvious that the caste structure is one of the main causes of unorganized labour in India<sup>9</sup>. In addition, the industrial revolution in the 18th century altered the demographic features of the urbanisation process, such as natural population growth and rural-urban movement, resulting in a significant rise in the urban labour force. However, due to the excessive rate of urbanisation, a large portion of the rapidly growing urban labour force remains unemployed or underemployed. As a result of this rapid growth, the Capital-Intensive Structure has failed to generate adequate and equitable employment and income opportunities in the modern formal sector. As a result, surplus labour that could not be absorbed in the formal sector has been pushed to seek employment and a living in a range of productive activities across society. As a result of this transformation, the informal sector emerged as a new source of employment and income. The term "informal sector" refers to (a) all private unincorporated enterprises (informal enterprises) owned by individuals or households engaged

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<sup>9</sup> Abdul Majid, Legal Protection to Unorganized Labour, p.9, (ed.2000).

in the production and sale of goods or services and (b) with employment sizes below a predetermined threshold, according to the United Nations Economic and Social Council's international definition. Persons whose employment connection is not subject to labour legislation, social protection, or some employment benefits are characterised as informal workers or employment. Combining the two the International Labour Organization has coined the term 'informal economy'<sup>10</sup>. The term generally used in India to denote the informal sector is 'unorganized sector' and informal workers are referred to as 'unorganized worker'. The terms unorganized sector and informal sector are often used interchangeable. The informal sector may be broadly categorized as consisting of units engaged in the production of goods or services with the primary objective of generating employment and income to the person concerned<sup>11</sup>. These units typically operate at a low level of organization with little or no division between labour and capital as factors of productions and on small scale. These units are small in their size, and not distinguishable from the household managing activity. Labour relations, where they exist, are based mostly on casual employment, kinship, or personal and social relations rather than contractual agreements with formal guarantees. The unorganized sector workers are found everywhere, in field, in home, in small workshops, and in forest etc. The Unorganized or informal sector constitutes a pivotal part of Indian economy, more than 90 % of work force and about 50 % of National Product are accounted for by informal economy. A high proportion of socially and economically underprivileged sections of the society are concentrated in the informal economic activities.

### **2.3. Characteristics/Features of the unorganized workers:**

1. Because unorganised labour has such a large number of members, it is prevalent throughout India.
2. The unorganised sector suffers from severe seasonality in job cycles, and the majority of unorganised workers do not have secure, long-term employment opportunities. Even people who appear to be gainfully and substantially employed are not, showing the presence of hidden unemployment.

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<sup>10</sup> Government of India, Report: National Commission for Enterprises in the Unorganized Sector, p.6 (Ministry of Labour & Employment 2007).

<sup>11</sup> ILO. 15th International Conference on Labour Standards (1993).

3. The workplace is scattered and fragmented.

4. The unorganised labourers are disproportionately exploited by the rest of society. They have poor working conditions, including earnings that are significantly lower than those in the formal sector, even for positions that are closely comparable in terms of labour productivity. Work status is of lower quality and terms of employment, both in terms of salary and employment.

5. There is no formal employer – employee relationship.

6. The unorganised labour force in rural areas is strongly stratified based on caste and communal factors. While such issues are significantly less prevalent in urban regions, they cannot be claimed to be completely absent because the majority of unorganised employees in metropolitan areas are migrant workers from rural areas.

7. Workers in the unorganized sector are usually subject to indebtedness and bondage as their meagre income cannot meet with their livelihood needs.

8. In the unorganised sector, primitive production technologies and feudal production relations are common, and they do not allow or encourage workers to ingest and assimilate higher technologies and improved production relations. The lack of absorption is also due to widespread ignorance and illiteracy, as well as inadequate exposure to the outside world.

9. The unorganized workers do not receive sufficient attention from the trade unions.

10. Inadequate and ineffective labour laws and standard relating to unorganised labours.

#### **2.4. Categories of Unorganized Workers:**

The Ministry of Labour & Employment in India has categorised the unorganised labour force in four groups in terms of occupation, nature of employment, especially distressed categories, and service categories.

1. **In terms of occupation-** This category includes small and marginal farmers, landless agricultural labourers, share-croppers, fishermen, animal husbandry, beedi rolling, and packing workers, building and construction workers, leather workers, weavers, artisans, salt workers, workers in brick kilns and stone quarries, workers in sawmills, oil mills, and so on.

**2. In terms of Nature of Employment-** This group includes attached farm labourers, bonded agricultural labourers, migrant workers, contract and casual labourers.

**3. In terms of especially distressed categories-** This category includes toddy tappers, scavengers, head load carriers, animal-driven vehicle drivers, loaders, and unloaded vehicles.

**4. In terms of Service categories-** This group includes midwives, domestic workers, fishermen and women, barbers, vegetable and fruit vendors, news-paper vendors, and others.

Cobblers, Handicraft artisans, Handloom weavers, Lady Tailors, physically challenged self-employed persons, Rickshaw pullers, Auto drivers, Sericulture workers, Carpenters, Tannery workers, Power loom workers, and the Urban poor are all examples of unorganised labour.

## **2.5. Classification of Unorganized Workers:**

In India Labour force is not homogeneous. It is divided into several categories, including wage earners, employed, skilled, semi-skilled, and unskilled workers, among others. Every social security system and working condition law has a different meaning and impact for each part, yet many segments remain undefined. The National Commission for Enterprises in Unorganised Sector<sup>12</sup> in its report defines the informal sector as “all unincorporated private enterprises owned by individuals or households engaged in the production and sale of goods and services and operated on a proprietary, or a partnership basis and employing less than 10 persons”.<sup>13</sup> The unorganized workers have been classified in the following categories:

**1.Mines and quarry workers:** “Any person who works in a mine as a manager, or under appointment by the owner, agent, or manager of the mine, or with knowledge of the management, whether for wages or not, is regarded to be working in a mine,” according to The Mines Act of 1952.’<sup>14</sup> For this purpose of, classification of workers mines can be divided in three categories:1. Public Sector Mines, such as Coal India Ltd. Steel Authority of India

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<sup>12</sup> National Commission for Enterprises in the Unorganized Sector was constituted by the Government of India, vide resolution No.5 (2)2004/ICC dated 20th September, 2004.

<sup>13</sup> Government of India, Report: National Commission for Enterprises in the Unorganized Sector para 2.3 (Ministry of Labour & Employment 2006).

<sup>14</sup> Section 2(h), The Mines Act, 1952.



Limited, Oil India Limited etc.2. Large- Private Sector Metalliferous and Non– Metalliferous Mines, 3. Small Mines and Quarries<sup>15</sup>.

Workers in the first category of miners are primarily employed directly by businesses. Contractors are used to hire the second and third types of mining workers. The first and second categories of mine workers are organised and have the ability to bargain their demands. The third type of workers is largely unorganised, and working conditions in subterranean mines are extremely hazardous. Unorganized mining workers are not eligible for any welfare payments. Employers avoid enforcing labour welfare rules and plans in these mines by evading them in a variety of ways. Despite the fact that the Minimum Wages Act of 1948, the Equal Remunerations Act of 1976, the Contract Labour (Regulation and Abolition) Act of 1970, and the Maternity Benefit Act of 1961 are all relevant to workers, these laws are not followed to the letter. Mine working conditions are appalling. Workers are subjected to substantial health risks, which shorten their lives.

## **2. Home Based Workers/ Home Workers:**

The term "home-based worker" refers to a broad category of workers in the informal or unorganised sector who do remunerative labour from their homes or in the immediate vicinity.

Home-based workers, sometimes known as "home workers," are in the grey area between employed and self-employed individuals. Because of the informal contractual relationship between the worker and the employer, the employer's agent, or the contractor, there is no system in place to enforce minimum wages.

International Labour Organization defines<sup>16</sup> the term 'home- worker' in following words the term 'home worker' means work carried out by a person, to be referred to as a home worker:

1) for remuneration,

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<sup>15</sup> Government of India, Report: National Commission on Labour, para 7.69 (Ministry of Labour & Employment 2002).

<sup>16</sup> ILO.Convention No.177, (Convention Concerning Home Work, 1996).

2) in his or her house or other premises of his or her choice other than the employer's workplace,

3) that results in a product or service as specified by the employer

### **3. Domestic Workers:**

A domestic helper, domestic worker / servant, is one who helps and often also lives within the employer's household. They are also free to leave their employment at any time, although socio-economic conditions and law relating to working in a foreign country may make that difficult. Domestic helps perform typical domestic chores such as cooking, ironing, washing, cleaning the house, buying food and drinks, accompanying the head of household for grocery shopping, taking the family dog for a walk, and taking care of the children<sup>17</sup>. International Labour Organisation Convention defines domestic worker as "a person engaged in domestic work within an employment relationship."

The Ministry of Labour and Employment in its report<sup>18</sup> defines "domestic worker" as, a person who is employed for remuneration whether in cash or kind, in any household through any agency or directly, either on a temporary basis or permanent, part time or full time to do the household work or allied work, and it does not include any member of the family of an employer.

Domestic workers are included in the category of wage workers under the Unorganized Workers' Social Security Act, which defines a "wage worker" as "a person employed for remuneration in the unorganised sector, directly by an employer or through any contractor, irrespective of place of work, whether exclusively for one employer or for one or more employers, whether in cash or in kind, whether as a homebased worker, or as a temporary or casual worker."<sup>19</sup>

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<sup>17</sup> Shashi Bala, The Employment and Domestic help in India: Issues and Concerns, p.2, NLI Research Studies Series No.: 088/2010.

<sup>18</sup> Government of India: Final report of the task force on Domestic Workers; Realizing Decent work, p.32, (Ministry of Labour and Employment, September 2011)

<sup>19</sup> Section 2(n), UWSSA, 2008.

The International Labour Organisation estimates that at least 52.6 million men and women were employed as domestic workers across the World in 2010.

#### **4. Contract labours/workers:**

Contract labour is one of the acute forms of the unorganized labour under the system of contract labour, workers may be employed through contractor on the contract basis. In this class of labour, the contractors hire persons (labour), who do the work on the premises of the employer known as the principal employer, but they are not deemed to be the employees of principal employer. The range of task performed by such contract workers varies from security to sweeping and catering etc.

The Contract Labour (Regulation & Abolition) Act 1970, which controls the employment of contract labour in some enterprises and provides for its abolition in certain circumstances, was passed with the goal of removing the disadvantages of contract labour. If a major employer employs twenty or more contract workers in a single establishment, the Act applies. The Act mandates the registration of all primary employer establishments and the licencing of all contractors. The Act also ensures the well-being and safety of contract workers.

#### **5. Street vendors/Hawkers:**

In the informal sector, street sellers and hawkers are among the most visible and active workers. The majority of them are from poor rural families. Because they can begin this activity with a minimal quantity of capital, street vending activities absorb millions of those who come to cities as economic refugees from the villages. They not only employ themselves through their entrepreneurial abilities, but they also employ others in agricultural and small-scale industry upstream. They are the primary distribution channels for a wide range of daily-use products such as fruits, vegetables, ready-to-wear clothing, stationery, newspapers, and magazines, among others. Like the other unorganized workers, they are also deprived of social security. The Parliament has enacted legislation namely, The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, to protect the rights of urban street vendors and to regulate street vending activities and for matters connected therewith or incidental thereto. This Act classifies the street vendor into two categories namely (i) mobile vendor and (ii) street vendor. The Act defines the mobile vendors, according to it mobile vendors means 'street

vendors who carry out vending activities in designated area by moving from one place to another place vending their goods and service<sup>20</sup>, and the term ‘street vendor’ is defined in the Act as ‘a person engaged in vending of articles, goods, wares, food items or merchandise of everyday use or offering services to the general public, in a street, lane, side walk, footpath, pavement, public park or any other public place.

## **6. Construction or building workers:**

More than eight million workers are engaged in building and other construction works throughout India<sup>21</sup>. These labourers are among the most vulnerable elements of India's unorganised workforce. Their work is ad hoc, the relationship between the employer and the employee is ad hoc, and working hours are ad hoc. The basic conveniences and welfare services supplied to these employees are insufficient.

In order to regulate the employment and conditions of service of building and other construction workers and to provide for their safety, health and welfare measures, The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 was passed by the Parliament. This Act defines the building worker in these words ‘a person who is employed to do any skilled, semiskilled or unskilled manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be expressed or implied, in connection with any building or other construction work but does not include any such person-(i) who is employed mainly in a managerial or administrative capacity, or (ii) who, while engaged in a supervisory capacity, earns more than a thousand six hundred rupees per mensem or performs primarily managerial functions, either by the nature of the duties attached to the office or by virtue of the authorities granted in him<sup>22</sup>.

**7. Beedi and Cigar Workers:** Beedi manufacture is a cottage industry based in the agroforest that is exclusively reliant on tendu leaves and tobacco. The State Department of Forests is in charge of tendu leaf plucking, collection, storage, and distribution to beedi makers. The industry requires a lot of labour because the entire manufacturing process is done by hand and requires a lot of particular talents. It belongs to both the organised and unorganised categories.

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<sup>20</sup> Section 2(d), The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014.

<sup>21</sup> Statistics taken from the official site of Chief Labour Commission (Central) Government of India.

<sup>22</sup> Section 2 (e), The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996.

The Beedi and Cigar Workers (Conditions of Employment) Act, 1966, covers a considerable number of workers in the organised sector who work in beedi rolling, sorting, checking, baking, labelling, packaging, and packing. The Schedule to the Minimum Wage Act, 1948, includes employment in tobacco processing, including beedi plants. Workers who aren't Beedi Rollers are commonly found in the beedi industry as factory workers.

The working conditions in the beedi and cigar establishment are deplorable. The majority of these units are poorly ventilated, with workers crammed into dark, dismal spaces. There are no regular hours of labour or permanent benefits for workers, and victimisation is widespread in tiny units. In the beedi sector, payment is mostly made on a piece rate basis.

The Act, on the other hand, mandates cleanliness and ventilation, as well as prevents overcrowding. The provisions for drinking water, washrooms, and urinals, as well as washing facilities, crèches, first aid, and canteens, are all included in the welfare measures. Working conditions stipulate working hours, overtime pay, rest intervals, weekly holidays, paid annual leave, and a prohibition on smoking.

## **8. Casual labours:**

Casual labour is synonymous of irregular employment or part-time labour, including the labour of workers whose normal employment consists of a series of short-term jobs. Casual labour is usually hired by the hour or day or for the performance of specific tasks, while part-time labour is typically scheduled for a minimum number of hours per week. The major industries that have relied heavily on casual labour are construction, logging, sawmilling, agriculture, and the service trades.

Casual labour is thus denied annual leave with wages<sup>23</sup>, maternity<sup>24</sup> and sickness benefits<sup>25</sup>, and employee provident fund<sup>26</sup>, because under the law a worker must complete a minimum

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<sup>23</sup> Under the Factories Act, 1948 annual leave with wages is admissible only to workers who work for 240 days or more and under the Mines Act, 1951 to those who complete one calendar years' service.

<sup>24</sup> Under the Maternity Benefits Act, no woman is entitled to maternity benefit unless she actually works in a particular establishment for a period of not less than 160 days (150 days under the Plantations Labour Act, 1951) in twelve months immediately preceding the date of expected delivery.

<sup>25</sup> The sickness benefit under the Employees' State Insurance Act, 1948 is available to those who pay 13 weeks' contribution in a period of 26 weeks.

<sup>26</sup> The Employees' Provident Funds Act, 1952 is applicable only to workers who have put in 240 days of continuous service in one year.

stipulated period of work in an establishment as a pre-condition for eligibility. The National Commission on Labour (1969) considered the practise of terminating a casual worker's employment for short periods of time and then rehiring him to prevent him from enjoying the benefits of a permanent worker to be pernicious, and recommended that if employment is terminated for a short period of time and then the worker is rehired, this short period should not be treated as a break in service.

## **9. Scavengers:**

Manual scavenging is practised by a huge number of people in many sections of the country, including both rural and urban areas. One of the primary foundations of the caste system is the allocation of labour based on caste. Dalits have been allocated activities and vocations under the caste system that are judged polluting for other caste members. Scavenging is the hereditary occupation of some 'untouchable' castes. Manual scavenging has always been a caste-based profession. The Bhangis in Gujarat, the Pakhis in Andhra Pradesh, the Sikkaliars in Tamil Nadu, and the Chura or jamadar in Haryana are examples of Dalit manual scavengers who exist under various caste names across the country. The National Commission for Safai Karamcharis which is a statutory body claims that manual scavengers are 'totally cut off from the mainstream of progress' and are still subjected to the worst kind of oppression and indignities.<sup>27</sup>

Persons involved in, or employed for, manually conveying human excreta or any sanitation task are referred to as Safai Karamcharis. Scavengers face a lot of socioeconomic inequality. The majority of scavengers reside in separate rural communities and are unable to share resources.

In **Safai Karamchari Andolan and ors. v. Union of India and Ors.**<sup>28</sup> A Public Interest Litigation was filed under Article 32 of the Indian Constitution, requesting that the respondent-Union of India, State Governments, and Union Territories issue a writ of mandamus ordering the respondent-Union of India, State Governments, and Union Territories to strictly enforce the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993, among other things seeking for enforcement of fundamental rights guaranteed under Articles 14, 17, 21 and 47 of the Constitution of India, give directions to the Central

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<sup>27</sup> Government of India, Report: National Commission for Safai Karamcharis, 1997

<sup>28</sup> Writ petition(c) no. 583 of 2003, Decided by Supreme Court on 27th March 2014.

Government to enact a legislation in this regard. On compliance of the effective intervention and directions of the Supreme Court, Government of India brought an Act called “The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013”

#### **10. Rag Pickers:**

Rag picking and other scrap collection is not a new phenomenon, particularly in industrial and metropolitan areas. They have an impact on the city's economy. Many manufacturing companies rely on the recycling of these wastes. Scrap collection is largely done by women and children in an unsanitary working environment.<sup>29</sup> Even while some junk gathering activity may be organised by contractors, there is often no employer-employee relationship in this occupation. Self-employed waste collectors are the most common type. Scrap dealers do not give them any receipts for the materials they acquire. Workers in this industry are not eligible for any social security benefits.

#### **11. Rickshaw Pullers:**

Rickshaw drivers operate primarily in cities and towns. They are mostly migrants. They go from small towns to larger towns and cities. The majority of them are tiny peasants who have lost their land in the city owing to feudal oppression, land mafia extortion, or natural disasters such as repeated floods. They have nowhere to dwell in large cities. They usually sleep on the sidewalks or in their rickshaws. They generally not own rickshaw. They take them on hire, and have to pay a large sum of money as rent, even if they do not earn enough. They do not have any social security cover. They live in miserable social and economic conditions. Due to small earnings their life is out of the mainstream of society. Illiteracy and poverty chase them. Their employment also comes under unorganized sector. The federal and state governments have not passed a single piece of legislation addressing the welfare and social security of this group of workers. However, in this regard, a central law, the Calcutta hackney-carriage act 1879, exists, which regulates and controls hackney-carriage in certain localities and cantonments.<sup>30</sup>

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<sup>29</sup> Government of India, Report: National Commission on Labour, para.7.127 (Ministry of Labour & Employment, 2002).

<sup>30</sup> Section 3, The Calcutta Hackney-Carriage Act 1879. Application of Act to Municipalities: The State Government concerned may, by notification in the Official Gazette, apply this Act to any municipalities in Uttar Pradesh, Punjab as it existed immediately before the 1st November, 1956], the Central Provinces, Assam, Ajmer or Coorg.].

## **12. Migrant workers:**

Migrant workers are those who have been forced to leave their homeland in search of a way to make a living. They tend to end up in the unorganised sector, both in rural and urban areas, due to a lack of skills and assets. The United Nations Convention on the Rights of Migrant Workers defines migrant workers as follows: "A migrant worker is a person who is engaged or has been engaged in a remunerated activity in a State of which he or she is a citizen."

It also defines the other terms that comes within the purview of the migrant worker, these are followings; (a)The term 'frontier worker' refers to a migrant worker who retains his or her habitual residence in a neighbouring State to which he or she normally returns every day or at least once a week; (b)The term 'seasonal worker' refers to a migrant worker whose work by its character is dependent on seasonal conditions; (c) The term 'seafarer' which includes a fisherman, refers to a migrant worker employed on board a vessel registered in a State of which he or she is not a national; (d) The term 'worker on an offshore installation' refers to a migrant worker employed on an offshore installation that is under the jurisdiction of a State of which he or she is not a national; (e) The term 'itinerant worker' refers to a migrant worker who, having his or her habitual residence in one State, has to travel to another State or States for short periods, owing to the nature of his or her occupation.

India is one of the world's most populous During the British occupation, labour migration began. It was designed to suit the needs of capitalist development in both India and outside. The workforce was relocated from the countryside to mines, plantations, and factories. It was recruited from rural regions and governed in such a way that women and children stayed in the villages while men went to work. Only inter-state migration is considered migration in India. The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, applies to these migrant labourers. The term "inter-state migrant worker" is defined in the Act as "any person recruited by or through a contractor in one State under an agreement or other arrangement for employment in an establishment in another State."

## **13. Agricultural workers:**

The expression 'agricultural workers' denotes those rural workers who are employed on agricultural occupations are agricultural workers.



An Agricultural worker has been defined by National Sample Survey Office<sup>31</sup> as ‘a person who follows one or more of the following agricultural occupations either as a smaller and marginal land holder who part of the time offer himself wage employment or landless labourer full time on hire, whether he is paid in cash or kind or partly cash and partly in kind for any of the following activities (a)Farming (b)Dairy farming (c)production cultivation and growing of any horticultural commodity (e)fishing (f)any practice performed on farm as incidental to or in conjunction with farm operations. Agricultural labour is employed for less than six months of the year, and during the off-season, they must often migrate to other jobs such as construction and similar ones. Agricultural labour is separated from the rest of the peasants. They operate in various roles on other people's land without owning any means of production. Because agricultural employees are disorganised, their bargaining power is limited, which allows moneylenders and wealthy farmers to exploit them ruthlessly. Agricultural employment provides for 60% of overall employment in the rural economy. The existing labour laws which are applicable to and partially safeguard, the interest of agricultural workers are: The Employees’ Compensation Act, 1923, The Minimum Wages Act, 1948, The Maternity Benefit Act, 1961, The Contract Labour (Regulation and Abolition) Act, 1970, The Personal Injuries (Compensation Insurance) Act, 1973, The Bonded Labour System (Abolition) Act, 1976, The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, The Child Labour (Prohibition and Regulation) Act, 1986 and Payment of Wages Act, 1936. The main legislations dealing with aspect of safety are, Insecticides Act, 1968. Several initiatives and programmes, such the Jawahar Gram Samridhi Yojana and Swarna Jayanti Gram Swarajgar Yojana, have been implemented by the government to benefit rural people, particularly agricultural labourers.

#### **14. Bonded labours:**

Bonded or forced labour means that ‘whereby one is compelled to work and accept employment at wages or remuneration less than statutory minimum wages or at times even without it or in lieu of payment of debt’. According to ILO<sup>32</sup> The term "forced or coercive labour" refers to any job or service that is extracted from a person under threat of punishment and for which the individual has not voluntarily given himself. Even after the adoption of the Bonded Labour System (Abolition) Act, 1976, it still exists in India. The states of Andhra

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<sup>31</sup> Government of India, Report: NSSO 61st Round Survey, para.1.7.37 (Ministry of Statistics & Programme Implementation 2004-2005).

<sup>32</sup> Article 2 (1), The Forced Labour Convention of 1930.

Pradesh, Bihar, Haryana, Karnataka, Maharashtra, Orissa, Punjab, Tamil Nadu, and Madhya Pradesh have a high incidence of bonded labour in the agriculture industry. In the non-agriculture sector, it is prevalent in brick kilns, stone quarries, beedi manufacturing, carpet-weaving, match and fireworks industry, pottery, construction projects and bonded child labour in the sericulture processing industry. Article 23(1) of the Constitution of India states, “traffic in human being and begar and other similar forms of forced labour are prohibited, and any contravention of this provision shall be an offence and punishable in accordance with law”.

### **Role of Judiciary on bonded labour:**

The Constitution of India and Bonded Labour System (Abolition) Act, 1976 prohibit bonded labour. In *Bandhua Mukti Morcha v. Union of India*, the Supreme Court held: “It is a system under which the labourer is required to work for some economic consideration. This process of discovery and transformation poses a serious problem, since the social and economic conditions in which it had to be accomplished is dominated by elements hostile to it. But this problem has to be solved if we want to emancipate those who are living in bondage and serfdom and make them equal participants in the fruits of freedom and liberty”.

In **People’s Union for Democratic Rights v. Union of India**, In the case of the Asiad employees, in which non-payment of minimum wages to construction workers was successfully challenged, among other things, for violating Article 23, the Supreme Court, after an extensive explanation of the underpinning philosophy and extent of the Article, found that “The prohibition against traffic in human beings and Begar, and other similar forms of forced labour is a general prohibition, total in the effect and all pervasive in its range. It is a charter of recognition of human dignity. The Court also held that all unwilling labour is forced labour whether paid or unpaid and is therefore prohibited.

In **Santhal Pargana Antyodaya Ashram v. State of Bihar and Others**, the Supreme Court by making a release order for bonded labour, imposed a duty on the State that the collector should issue a released certificate to each of the person so release. The released bonded labourers must be rehabilitated by the State Government on a permanent basis. Implementation of the rehabilitation programme should not wait on account of the pendency of the present proceeding in the apex Court.

### **2.6. Unorganised Sector workers in India:**

In India, a major chunk of labour force is employed in the unorganized sector. As per the statistics of the National Sample Survey Organization total workforce in India is about four hundred and thirty million. Out of this, about 28 million i.e., seven percent are in the organized sector. The balance three hundred and 72 million workers comprising ninety-three percent of the total workforces are in the unorganized sector. Unorganised or informal sector constitutes a pivotal part of the Indian economy. More than 90 per cent of workforce and about 50 per cent of the national product are accounted for by the informal economy. A high proportion of socially and economically underprivileged sections of society are concentrated in the informal economic activities. The high levels of growth of the Indian economy during the past two decades are accompanied by increasing informalisation. There are indications of growing gaps between informal and formal economic activities. Faster and inclusive growth needs special attention to informal economy. Sustaining high levels of growth are also intertwined with improving domestic demand of those engaged in informal economy and addressing the needs of the sector in terms of credit, skills, technology, marketing, and infrastructure.

According to the NSSO report (2009-2010) out of 46.5 crore employed persons, 2.8 crore are from organised sector and rest 43.7 crore from unorganised sector. Among the total unorganized workers, 24.6 crore workers are employed in agricultural sector, 4.4 crore in construction, and rest are in manufacturing, trade, transport, and services activities. Working conditions of unorganized labours can be achieved with better infrastructure, basic services, self- help initiatives by linking workers and institutions providing services. Kishore C Samal (2013) the unorganized labour work for low wage, with more women workers, engaging family labour, home based works, instances of child labour, migrant workers, piece rate payment, contractual employment, recruitment through contractors, seasonal employments, under employment, casual works, self-employments, cooperatives for employees, not organized into trade unions, not much recourse to collective bargaining, hazardous job, and debt bondage.

According to 15th International Conference of Labour Statisticians (1993) The informal sector is producing goods or services primarily for generating employment and incomes to the poor". More than 90 per cent of the total workforce in the country and 50 per cent of the total Net National Product are contributed by the socially and economically underprivileged sections of the society working in informal sectors. Rehman Sobhan (2010) Informal sector contributes 50.6 per cent of Gross Domestic Product in the Country GDP. In India, there are 43.7 million individuals working as unorganised labourers in the residual industry. Around 24.6 million people work in agriculture, 4.4 million in construction, and the rest in industry and service.

This industry may eventually encounter gaps in employment legislation, pay patterns, bad employer-employee relationships, and a casual work culture. By potentially utilising family labour and technology, the informal sector covers a huge number of employees from rural areas and a significant number from metropolitan areas. The unorganised labours work in non-unionized jobs that are casual, seasonal, and dispersed. Many statutes dealing with difficulties in the unorganised sector are neither practical nor practicable. Unorganised workers are also kept away from the Social Security Benefits such as Old Age Pensions, Gratuity, Employees State Insurance, Workmen's Compensation etc. in India. The unorganised sector is critical to India's economic development. After analysing the present working circumstances of unorganised labours in India, it is vital to investigate the existing employment relations for the efficient application of labour regulations for the informal sectors.

### **Growing prominence of unorganised sector in India:**

One of the most prominent elements of India's labour sector has been the prevalence of informal work. While the informal economy produces almost half of the country's GDP, it has such a stronghold on employment that it employs more than 90% of the overall workforce. As per the latest estimation of a Sub-committee of the National Commission for Enterprises in the Unorganized Sector (NCEUS), the contribution of unorganized sector to GDP is about 50% (NCEUS 2008).

This nationwide pattern of informal labourers accounting for about 90% of the workforce is replicated throughout the majority of the country's major states. A significant majority of unorganised sector workers (about 65 percent) are employed in the agricultural sector, indicating the importance of the rural sector in the informal economy.

The growth of official employment in the country has always been lower than the increase of overall employment, indicating that the informal sector is growing at a faster rate. According to available data, the proportion of informal / unorganised workers is increasing even in the formal economy. For instance, by providing a comparison of the NSSO Employment Data for 55th and 61st Rounds (for 1999-2000 and 2004-05 respectively) the NCEUS (2007) explains that the country is currently in a state 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.

When compared to the formal sector, it is widely known that India's informal sector has a poor productivity syndrome. The sector is characterised by low real earnings and poor working and living conditions.

Furthermore, the sector is characterised by excessive seasonality of employment (particularly in the farm sector), the preponderance of casual and contractual employment, the absence of social security and welfare legislation, the negation of social standards and worker rights, the denial of minimum wages, and so forth. Poor human capital base (in terms of education, skill and training) as well as lower mobilization status of the work force further add to the vulnerability and weaken the bargaining strength of workers in the informal sector. As a result, the sector has evolved into a competitive and low-cost mechanism for absorbing labour that cannot be absorbed elsewhere, whereas any attempt to control it and put it into a more effective legal and institutional framework is seen as jeopardising the sector's ability to absorb labour.

With the advent of globalisation and the resulting reorganisation of production chains, production systems have become increasingly atypical and non-standard, involving a flexible workforce engaged in temporary and part-time employment, which is seen primarily as a measure taken by employers to cut labour costs in the face of stiff competition.

### **Economic Contribution of unorganised sector to the Indian Economy:**

According to National Statistical Commission (2012) informal sectors in the developing countries will contribute two third share of employment of the country. Indian economy rapidly grown in the last two decades with non-formal and dynamic employments boosting output and earnings. The higher economic growth can be achieved through inclusive growth the informal economy. According to 15th International Conference of Labour Statisticians (1993) The informal sector has producing goods or services primarily for generating employment and incomes to the poor". More than 90 per cent of the total workforce in the country and 50 per cent of the total Net National Product are contributed by the socially and economically underprivileged sections of the society working in informal sectors. Rehman Sobhan (2010) informal sector contributes 50.6 per cent of Gross Domestic Product in the Country.

## CHAPTER 3

### ISSUES AND CHALLENGES FACED BY UNORGANISED WORKERS:

#### 3.1 Problems faced by unorganised workers:

90% of the workers is employed in the massive informal sector. They had to deal with a variety of issues in their daily lives, such as staying very close to their office, extending working hours on a regular basis, and exploitation and hazardous workplaces. In comparison to the organised sector, this sector has yet to experience the organization's advantages and benefits. Many of them are now unnoticed victims. The problem begins with identifying and defining the unorganised industry. It is impossible to categorise the industry based on a single criterion. Despite the fact that this sector is vital to the economy in terms of employment, a substantial portion of the workforce has been overlooked. As a result, an effort was made to address the vulnerability issues that unorganised employees face:

**1. Very low wages** Most of the time, the minimum wage act applies to workers in the organised or formal industries. The Supreme Court of India ruled that paying employees less than the statutory minimum wage amounted to forced labour, which is prohibited under Article 23 of the Indian Constitution, whereas economic coercion could lead to people volunteering to work for less than the statutory minimum wage. In most studies of working conditions in the unorganised sector, wage levels and earnings of workers have been examined, and daily salaries below the minimum wage rate have been calculated. The current scenario, however, demonstrates that the Minimum Wage Act of 1948 is restricted in reach and effectiveness.

In case of **Union for Democratic Rights v. Union of India** (AIR 1982 SC 1473) The Supreme Court held that employing workers for wage below the statutory minimum level will result in forced labour, which is prohibited under Article 23 of the constitution of India even though poverty forces anyone to work for low wage. Studies on conditions of employment in the unorganized sector reported that daily wages are paid much below than the minimum fixed by the government. The casual workers are least protected due to low earnings. Wage is not

influenced by the market forces. Report on the Working of The Minimum Wages Act, by Government of India (2013) lack of uniformity in wage structure is found across the states and union territories due to the application of the Minimum Wages Act only to the scheduled employments, in cases where the State Government fails to include any employments, within the scheduled list, are not covered under this legislation.

Overtime, paid vacation, and sick leave are not granted to them: despite the fact that overtime, paid vacation, and sick leave are covered under labour rules, many casual workers are denied these benefits. However, the usage of these laws is common in formal segments.

**2. Poor work environment:** The work environment in unorganised sector is miserable and very bad as compared to the organised sector. Maximum workers working in organized sectors avail house rent allowance, in addition to that they get house from housing board and also get bank loan from various statutory banks for making their own particular house yet, unfortunately the workers from unorganized sectors are deprived from all these facilities, subsequently they have a propensity to make cluster inside the restricted space in their living region where they do not have appropriate washing facilities, because of that they regularly deal with the unbalanced circumstance particularly women workers.

Deficiencies in sanitation due to lack of washing facility, proper urinal and toilet facilities will affect the health of workers. Even the physical conditions like space, lighting, ventilation available are very poor compared to organized sector.

### **3. No knowledge of Trade Union or Labour Union:**

The existence of the Trade Union and its rules is unknown to the vast majority of people. The fundamental goal of establishing a Trade Union is to resolve any disputes that may develop between the company and the employee. A trade union is one that is currently registered under the Trade Unions Act of 1926.

The majority of unorganised workers are unaware of the existence of labour unions or their rules. Many unorganised sector workers have joined various regional unions with unorganised sector assembled them, such as agricultural workers, brick workers, hosiery workers,

construction rakes, fish and forest workers, domestic workers, bidi rollers, sex workers, and liquor shop employees.

#### **4. Lengthy working hours:**

Long working hours have a significant impact on the social and familial lives of workers in general, and women workers in particular. We have no desire to participate in cultural or social activities. You don't even look after your children properly. In India's unorganised sector, long working hours that exceed labour standards are prevalent. Because there are no laws that can serve as a guideline for farm workers' working conditions, there is no fixed working hour in the agriculture industry. Workers in non-agricultural sectors such as fireworks, casinos, power plants, and so on started working at 6 a.m. And it will continue till late at night.

Arjun Patel and Desai Kiran (1995) long working hours beyond the regulatory norms will affect the social and family life, especially of women employees restraining them from participating in any cultural or social affairs of the family. Absence of laws to govern the working conditions of agricultural labour resulted for lengthy working hours. In Fireworks, Match works and hand loom work starts at early morning 6.00 a.m. and spreads for 12-15 hours per day. Kamala Kantha (2012) in many cases the statutory limit of working hours fixed for 48 hours per week, if violated instantly affects the working conditions of unorganised workers.

In the loom industry, work is organised so that pay is computed on a daily basis for 12-15 hours. No adult worker is required to work more than 48 hours per week under the Factory Act of 1948, the Minimum Wage Act of 1948, and the Shops and Establishment Act. These working-hours regulations, on the other hand, have been disregarded. There are essentially no restrictions on service hours.

#### **5. Health and occupational risks:**

Working conditions in the unorganised sector are the primary cause of negative effects on employees' health. Poor nutrition intake, as a result of low salaries and constant physical labour, causes health problems for unorganised employees and puts their lives at danger. Poor workers are frequently forced to forget or get indebted due to a lack of healthcare services. In terms of home workers, the majority of studies have revealed health issues mostly connected to



respiratory difficulties caused by tobacco dust and body aches caused by inhalation owing to the unusual position that must be maintained during the working period.

For employees in general, and women in particular, working conditions in some businesses such as seafood processing, tobacco, and the salt pan sector can be described as appalling. Employees in tobacco processing plants will do all tasks, including plucking, scrubbing, sorting, and labelling, while surrounded by piles of tobacco deemed unsafe. The workers can't even see each other's faces because the nebula of microscopic tobacco particles is so deep. The factory's owners do not provide adequate care for the workers. They don't give you stuff like an apron, displays, a closer-mouth, or shoes.

Salt pan employees have been shown to have skin illness due to their regular exposure to salty water. The light reflected from the salt heap causes serious eye problems. Due to the frequent usage of fertilisers, insecticides, pesticides, and mechanisation goods, agriculture workers face special health concerns. Pesticide applicators, mixers, and loaders are at danger of exposure.

As a result, workers in unorganised industries, such as fireworks and fireworks, leather, and construction, are risky and threatened. Amputations and missing limbs are common when workers operate machinery that isn't properly guarded or secured. Occupational sickness and diseases were also reported by workers in numerous unorganised sector firms.

48 per cent of informal workers spend their Annual Household income for the Medical Care. The lack of Subsidy or Government support in health care has added vulnerability in their life. The inability to offer medical treatment have resulted poor health status. They are even driven towards poverty and indebtedness.

Arjun Patel and Desai Kiran (1995) persons engage in applying, mixing, and loading pesticides are exposed to toxic chemicals. Collecting statistics about accidents and injuries in farming need to be developed. The workers working in the fireworks, match works, leather tanning and construction are prone to accidents leading to amputations, due to unguarded operations or unsafe machines.

## **6. Job insecurity:**

Workers in the informal sector frequently work many jobs, and pursuing multiple jobs might be interpreted as a sign of workplace instability. One or two jobs will scarcely suffice to keep you afloat. Farm labour occupations, for example, are unreliable and unpredictable. Because jobs are only available for roughly three months and the rest of the year is spent looking for work, they are primarily unemployed and hungry. As a result, agricultural jobs are accessible for fewer days each year. Mahatma Gandhi's National Rural Workers Employment Assurance Law of 2005 strives to ensure job security by requiring a minimum of 100 days of physical labour in the country's backward districts. However, because of the differences in type and location, informal employees are still at risk of losing their jobs.

Suresh Srivastava (1995) informal workers depends on multiple employments due to insecurity of work. Agricultural workers are engaged for only three months in a year and for the rest, they search an alternative job to sustain from starvation. National Commission for women reporting impact of WTO on Women in Agriculture (2005) they are engaged only few day's work in a year. National Commission for Enterprises in the unorganised Sector (2006) Mahatma Gandhi National Rural Workers Employment Guarantee Act, 2005 aims to provide employment guarantee for 100 days of work in the most backward districts of the country for manual labour. The factors like variations in the climate and location also affects the workers job security.

### **7. Insecurity during Old Age:**

The majority of the provisions relating the provisional fund have not been achieved by construction employees and contract labourers. Employee ages in the unorganised sector are a key source of worry. Agricultural labourers and construction workers are concerned that old age will prevent them from working. Due to several factors such as adult workers' incapacity to support their families' requirements, insufficient public health facilities, and higher costs of private health care for older people, insecurity will occur for the huge proportion of elderly people who are predicted to be present in the future.

Leading life during the old age has become a challenge among unorganized workers. Construction workers and contract labours are not covered under the Provident Fund scheme. The nature of employment in Agriculture and Construction created a fear of displacement from work on age factor due to inability to work after certain age. The insecurity is due to lack of

support from the family members, inadequate public health care facilities and expensive private health care for the aged.

### **8. Lack of social security measures:**

Many times, a worker is unable to operate in a cost-effective manner. Because of biological factors, such as modernization, sickness, or age; human tragedies, such as widows or accidents; societal or natural disasters, such as unemployment, flood, fire, drought, or industry shutdown. During these dangerous times, the worker requires aid such as social security to get through the crisis and return to work. Social security programmes are necessary to protect unorganised employees from insecurity and destitution. There are no measures in place to cover risks and ensure that living standards are maintained in instances of crisis, such as unemployment or health problems.

Workers are economically inactive due to biological, personal, social, and natural risks which are beyond human control. Biological risks cover modernity, sickness and old age, personal risks of widowhood and accident, social risks of unemployment, natural risk includes flood, fire, drought and closure need to be treated through social security mechanisms.

### **9. Lack of bargaining power:**

Despite greater acknowledgement of the informal economy and its contribution to GDP, the absence of workers' rights and legal status has tended to modify employee prospects, among other things. This is due to a lack of organisation, or at the very least a lack of ability to communicate or disagree with employers' positions in order to preserve their interests. Long hours of work, social alienation of migrants, high unemployment rates, and a lack of education are the main impediments to self-organization.

Gender and Economic Policy Discussion Forum (2012) the migrants workers have no right to bargain and works for less wage. Illiteracy, lack of awareness, lack of regulations and social isolation are the hurdles from unionizing. Although employment opportunities it generates and contributions to the Gross Domestic Product of the country, it lacks in the legal status affecting workers right prospects drastically. They cannot voice their demands or object the adverse attitude of the employers to protect their self-interest.

## **10. Poverty and Debt:**

Workers in the unorganised sector were far more likely than their organized-sector colleagues to be poor. Employees in the unorganised market, despite low earnings and unstable positions, are unable to meet their fundamental requirements and other social and cultural obligations. It's also true that rising debt is a leading cause of suicide in various countries. Poverty is a real possibility since wage rates are so low.

Kannan K.P (2012) workers are poor due to the low income and uncertain employments, facing problems to manage social and cultural life with poor economic status. Increased indebtedness in the agricultural sectors resulted in the increase of suicide of farmers.

## **11. Vulnerable Labour Groups:**

The First National Labour Commission, as well as the Second National Committee (2002), noted that a bondage system has developed in quarries, brickkilns, and major buildings, which is perpetuated by child labour from generation to generation.

Bonded workers and child labourers, in addition to migratory workers, are the most marginalised and abused populations. Bonded labour necessitates a debtor-creditor alliance. The creditor gives the workers a loan that is secured until the obligation is paid off. The debt payback system is set up in such a way that the servant will never reimburse his employer for his services during his lifetime. It is this feature that distinguishes unpaid forced labour from bonded labour.

Migrant labours, bonded labours and child labours are the major vulnerable groups who are exploited and deprived in all spheres of life. Study group reported that quarries, brick kilns and construction sites engage bondage extending over generations through child labour. Vidyut Joshi (1995) creditor grant loan to labours, on agreement of forcing them to be under bondage till repayment of the sum forming debtor-creditor relationship. If the debtor could not repay the loan with specified interest, he shall serve the creditor for life. In bondage, exploitation exists due to the arbitrary terms and conditions vested upon the perpetuating debt and illegal detention. Ramadhar Giri (2007) Increasing demand for the workers in agriculture, the instances of bondage of the children of indebted labourers, who are forced to work in return

for the debt. Bondage is common in carpet weaving, cloth printing, explosives, fireworks, cigarette making, printing and soldering jobs.

### **12. Insecurity from natural disasters:**

Floods, droughts, famines, earthquakes, and other natural calamities have severe consequences on the informal economy. Natural catastrophes can also wipe out the informal sector's productive base by affecting the private sector's limited domestic assets.

For most informal sector workers, working and living conditions are inseparable. Poor infrastructure and lack of basic facilities contribute to poor conditions of employment. Improvements in working conditions can be achieved by better infrastructure and basic services for informal employees. Organizing informal workers will aid in the resolution of concerns relating to their working circumstances, as they will be able to initiate self-help activities and connect employees to the institutional structure that provides services.

Sudharshan, and S. V. Sethuraman (2001) natural disasters like flood, drought, famine, earthquake etc., will disturb the productivity affecting individual household income and asset of the unorganised workers.

### **13. Problems of Migrant Workers:**

Most migrant workers are poor, without adequate basic amenities, works under adverse environment. For example, the Sugarcane labourers, who lives in the open field, facing steady problems in the monsoon seasons from the menace of snakes, scorpions, mosquitoes etc. The workers harvesting the sugarcane crops do not have electricity, water supply and sanitation facility.

### **14. Poor Employer-Employee Relationship:**

Rani Advani and Debi. S Saini (1995) scattered work culture without designated workplace, is preventing to build master-servant relationships to execute labour laws. The preference over multiple employers due to non-availability of work and employment of home-based workers

through contractors has deprived the unorganised workers from getting minimum wages and social security.

#### **15. Women and child workers are vulnerable and draw very low wages:**

Women and children are the most vulnerable workers in the unorganised sector, according to research. In urban areas, a developing wonder is using children and women as home employees. Children and women's working conditions are completely unregulated, and they are frequently forced to work without food or pay, creating conditions that resemble slavery. Despite their devotion to the same working hours, they are given lower earnings than adult male labour. Women and children who work as housekeepers have been subjected to physical, sexual, and psychological abuse.

#### **16. Susceptible to diseases:**

Health issues are a regular occurrence among workers in unorganised industries. In the informal sector, occupational disorders such as pneumoconiosis, TB, and asthma are rampant. Problems with the digestive system, circulatory system, urinary tract, blood pressure, and other sensory organs (such as loss of vision, hearing, and so on) are also quite prevalent. They do not get proper facilities for treatment except the health centre of Employees' State Insurance Scheme.

#### **17. Bonded labour (Dadan):**

The term "bonded labour" refers to a contractual agreement between an employer and an employee. This form of relationship has existed in India since the king's dynasty. In the history of the globe, there existed a legend about slave traders, but it had no basis in fact other than brute force. The force of bound labour, on the other hand, comes from outstanding debt. Occasionally, a few labours are unable to find work in the unorganised sector, so they opt to slant toward the security of any work that is offered in the form of bonded labour. Despite the fact that bonded labour is illegal, it is nonetheless enforced by a few persons.

#### **18. Numbers of harassment issues at workplace for working Women:**

Harassment is a common occurrence among women who work in unorganised sectors. Five female salespeople at Kalyan Sarees in Thrissur, for example, went on strike in December 2013 to seek improved working conditions. Management used to slash employees' pay for the silliest of reasons. For more than 10 hours, female workers are not allowed to sit or even go to the bathroom. Although a woman's legal right to a secure workplace exists, many working women in the unorganised sector continue to suffer from a variety of physical and psychological diseases as a result of eve teasing and sexual harassment.

**3.2. Problems of different segments of workers:** In this study an attempt is made to analyse the issues and challenges faced by the informal workers in different sectors in India.

### **3.2.1. AGRICULTURAL LABOURS:**

Agriculture plays a dominant role to provide employment opportunities in Indian economy. Its contribution towards Gross Domestic Product (GDP) one fifth and it provides employment to 57 percent of Indian workforce. The growth of some commercial crops has significant potential for promoting exports of agricultural commodities and bringing about faster development of agricultural-based industries. Thus, agriculture not only contributes to overall growth of the economy but also reduces poverty by providing employment and food security to the huge population in the country and thus it is the most inclusive growth sectors of the Indian economy. Major part of the workforce in the developing countries especially in India is arrived from unorganized sector. The informal labour market in India is a vital part of the economy. Agricultural workers, home-based work such as rolling beedis, self-employed workers selling vegetables, employment in household enterprises and small units, construction site labour, domestic work, handicrafts, khadi and village industries, handloom weaving and sericulture, and other unorganised workers are among the unorganised workers. Despite the fact that the Unorganized Employees' Social Security Act of 2008 was enacted to offer social security and welfare, unorganised workers continue to live below the minimum accepted standards, with inadequate facilities and a low salary that does not cover their basic necessities.

#### **Problems of the Agricultural Labours:**

**Seasonal employment:** Due to weather and environmental circumstances, agricultural labourers do not have consistent work. On average, a farm labourer works for around 197 days

each year and is unemployed for the remainder of the year. Agricultural labourers are unable to find year-round employment.

**Lowest wages:** The fundamental issue in the agricultural sector is wage. Despite the fact that agricultural wages have been raised multiple times since independence, the laws have been inadequately administered. Low wages cause the vicious cycle of exploitation by landlords in Uttar Pradesh, Bihar, Odisha, and Madhya Pradesh, where salaries vary from Rs. 20 to Rs. 30 per day per man, compared to Rs. 7.50 to Rs. 9.50 in Punjab and Haryana.

**Huge number of Family members:** The numbers of members increased in the families are other problems of landless agricultural labour.

**Social Status:** Agricultural labourers' earnings are quite limited. As a result, the social position of labourers has not improved in comparison to other income groups of people.

**Unemployment due to Technology:** The development of farm machinery had its own influence on landless agricultural labour, resulting in unemployment or underemployment. All of the modernization programmes and technical transformations have benefited largely the wealthy farmers, leaving a substantial portion of the rural populace jobless.

**3.2.2. HOME-BASED WORKERS** “Home-based workers” refers to the general category of workers, within the informal economy or 'unorganized sector', who carry out remunerative work within their homes. Agricultural produce processing, seed preserving, sorting, and processing of minor forest produce, livestock rearing, coir goods making, spice making, leaf plate making, metal work, carpentry, bangle making, shoe making, papadum making, incense stick making, paper goods making, packing, labelling, and assembly are all examples of home-based work.

**Problems of the Home-based workers:**

**Unprotected by labour law:** In India, there is no policy or law governing house workers. The majority of labour regulations are intended to protect workers' salaries and working conditions in the organised (formal) sector. Workers cannot be protected by such rules when their workplace is in their homes.



**Poor remunerative policies:** Workers who work from home are paid on a piece-rate basis rather than by the hour. A minimum wage is often paid to employees who are paid on a time basis for an eight-hour work day. Workers who worked from home were only paid a pittance.

**Lack of bargaining power and social protection:** Employers with own-account workers have no direct access to the greatest markets and have limited bargaining power, while home-based workers are economically and socially disadvantaged and have little or no bargaining power, making it difficult for them to stay in business.

**3.2.3. STREET, MARKET VENDORS:** Street vendors are those with low skills and who have migrated to the larger cities from rural areas or small towns in search of employment. When they run out of other options, these people turn to street vending. Although the pay is modest, the investment is also low, and the workers do not require any special skills or training. As a result, for many men and women, street vending is the most convenient way to make a living.

#### **Problems of the Street Market Vendors:**

**Fear of harassment by authorities:** Because they do not have licences, the majority of street sellers are exposed to various sorts of harassment by the police and municipal officials. Vendors endure a lot of abuse at work because of their unlawful status. Police and municipal authorities raided their homes and confiscated their belongings. They had to pay fines to release their goods. This causes loss, as they cannot ply their trade during that period.

**Fear of Bribe:** Street vendors suffer a variety of issues, including long hours, little pay, and high interest rates. Almost every day, they had to pay bribes. The police, municipal officials, and local musclemen all play a role in wreaking havoc on their lives and livelihoods. These vendors had to not only pay the bribe, but occasionally a police jeep would pull up and the policemen would pick up fruits and vegetables from them free of cost. If they made any sign of protest they would be beaten.

**Income, Working Conditions and Employment:** Vendors' earnings are rather modest. Because the majority of the sellers took out loans from high-interest moneylenders. Vendors have difficult working conditions. Every day, around 5 a.m., these folks left their houses in

their villages to make it to the marketplaces on time. They commute by bus from their villages and return home at around 10 p.m. after settling their accounts.

**3.2.4. WASTE PICKERS AND RECYCLERS:** Waste pickers are people that go through garbage cans and pick out the items we throw away as trash. Waste pickers - women, children, and men from the lowest socioeconomic strata - can be found in most cities and towns around the country. Waste picking is regarded as the most menial of all activities, and people who have no other option are typically compelled to engage in it. They play an important role in trash management since they scavenge recyclable materials, saving the municipality money and time by collecting and delivering them to landfills.

#### **Problems of Waste pickers and Recyclers:**

**Health Injuries:** They are prone to physical ailments such as cuts and pricks. This is due to insufficient source separation and the lack of protective gloves. Some collectors suffer from back pain as a result of manual labour and pushing trolleys. A waste collector's health is influenced by a number of elements such as living environment, eating habits, personal hygiene, and so on.

**Child Labour:** To contribute to the family income or to survive on their own, children frequently pick up trash. Picking trash, especially in open dumps, is one of the most dangerous forms of child labour. It has the potential to harm children's health and development.

**Lack of housing facility:** It is a major issue for garbage collectors in all countries. Many families that labour in waste recovery live on the road, on platforms, or on the verge of being evicted. Various informal recycling colonies in India have been demolished numerous times.

### **3.3. Problems of Unorganised Labour in Urban and Rural areas:**

The unorganised labour may be rural or urban to whom any type of protective legislation is not applicable or not reached to them. The unorganised labour is composed of heterogenous group which may differ in terms of gender, rural or urban, and type of employment, i.e., self-

employed or through contractors. In rural areas, the unorganised labour comprises of agricultural labour, marginal farmers, artisans, and other unskilled labourers. In urban areas, they are mostly found in small manufacturing industries, transport, trade, and in personal services. The self-employed workers can be seen both in the rural and urban sector which forms the single largest category of total workforce. Various studies highlight the fact that in the Indian context, the informal sector is more of a rural than of an urban origin. Majority of the workers in the urban sector are migrants from rural areas. The agricultural labour in the informal sector has remained vulnerable. While the fact remains that the organised sector is homogeneous in nature, the unorganised sector and its labour is significantly heterogeneous as regards working and living conditions. Further, it is necessary to distinguish between urban unorganised labour from the rural unorganised labour because their problems are different under varying circumstances.

The main problems of urban unorganised labour are as follows:

1. Absence of clear employer-employee relationship leaving these workers to themselves.
2. Working in tiny, dispersed groups makes mobilising and organising such workers extremely challenging.
3. Employment in different work environments under varying conditions of work making standardisation of working conditions practically impossible.
4. No clear occupational classification leading to difficulties in the application of uniform labour legislation.
5. The majority of people are employed in low-tech, low-productivity, and low-paying jobs.
6. A large section of these workers have little education and poor skills or are unskilled.
7. Workers are unable to enjoy access to institutional credit and other financial schemes meant for the disadvantaged.
8. Many of the workers, especially women workers, are exploited in several ways.
9. Prevalence of child labour and its exploitation is a characteristic feature.
10. Poor living, and unhygienic conditions is a characteristic feature of the urban poor.
11. Little access to formal or informal education and training, leaving workers illiterate and unsophisticated.

12. Lack of necessary political and social organisations to draw policies and plans for their overall welfare.

13. Dependence on kinship, caste and regional ties for employment and survival.

The problems of rural unorganised labour are as follows:

1. The jobs in rural areas which are mostly agriculture based are scattered, seasonal and sequential in nature.

2. There is no scheduled work and hence no fixed hours for any job.

3. Basically these workers are economically weak and below poverty line.

4. Due to their typical nature of work, it is difficult to organise them.

5. Ignorance and illiteracy among these workers, particularly amongst the female workers.

6. Dependence of rural labour on big landowners and money lenders for credit which results in bonded labour.

7. There are significant gaps between urban and rural areas in terms of education, health, working and living circumstances, and vital commodities available at reasonable prices.

8. Majority of the workers are under illegal contract system.

9. Some sections of rural labour want wages in kind, for example, forest and plantation workers because such services are not available to them.

10. Health and education programmes are less accessible to these vulnerable groups especially women and children as compared to urban unorganised workers.

Unorganized workers make up a significant portion of the workforce in agriculture and associated industries. Their involvement in various occupations such as handloom, power loom, beedi production, brick kiln, construction, and conservation labour in urban and semi-urban areas is also significant.

### **3.4. Problems and Impact of lockdown during covid 19 Pandemic on Unorganised Sector Workers in India:**

As the whole world is struggling with the pandemic Covid 19 and still the vaccine is not invented, countries are bound to take the precaution as the only major action lockdown the specific area or the whole country. In this situation after applying lock down Indian economy came under critical stagnation and consequently the people of India are stressed on the economic front for their survival individually. The condition in each sector is deteriorating but particularly the unorganised sector is worst affected due to lockdown. Unorganised sector or informal sector having a significant contribution to the Indian economy, around 90% of the workforce is engaged in this sector. Almost 50 % of the national production of the economy is shared by unorganised sector. The underprivileged people of the society are highly dependent on this sector hence the workers have been trapped severely in crisis during the lockdown period. The main aspect of pandemic is that it has unfolded the reality of workers and their working condition.

Government of India has taken an action of lock down due to growing cases of coronavirus in this process transport services, factories, All, sorts of public and private offices have been closed, even the mobilisation regulated perfectly. As per MRD report up to the end of 1st week of April, there are 40 million people who have lost their jobs in the country mostly in unorganised sectors. In this situation reports are forecasting that India may trap into recession distressing the unorganised sector severely. When we study the work-related structure, ten extremely vulnerable jobs such as small shops salespersons, labourers in construction, manufacturing and transport, domestic helpers, housekeeping, painters, street vendors, garbage collectors, restaurant service workers, and market and stall salespersons are there in which 40 million workers are engaged and those are worse affected throughout lockdown period along with their families.

According to a new report by international management consulting firm Arthur D Little, titled "India: Surmounting the economic challenges posed by COVID-19: A 10-point programme to revive and power India's post-COVID economy" said the 'collateral damage' of the forecasted GDP slowdown, will be felt most acutely in employment, poverty alleviation, per-capita income, and overall nominal GDP. This report also predicts 135 million job losses which may push 120 million people into poverty in India. The report also said "Unemployment may rise to 35 per cent from 7.6 per cent resulting in 136 million jobs lost and a total of 174 million unemployed. Poverty alleviation will receive a set-back, significantly changing the fortunes of many, putting 120 million people into poverty and 40 million into abject poverty," The International Labour Organisation (ILO) also assuming —COVID-19 crisis can push 40 crore

informal sector workers in India deeper into poverty. As per recent survey of Centre for Monitoring Indian Economy (CMIE) the total rate of unemployment has increased in the last week of March from 8.4% to 23.8% which means the jobless workers has mounted from 32 million to 38 million. We cannot deny the estimation done by Pranab Sen, the former chief statistician of India who has reported that around 50 million workers might have lost their jobs within two weeks after the lockdown. This problem of growing unemployment may worsen the poverty in India. We can assess the critical situation of unemployment in the formal and informal both by the fact that merely less than 10% jobholders can shift to work from home method in the duration of lockdown but the large number of workers are bound to die or struggle for their survival as they are daily wagers. As we know 40 to 50 million seasonal migrants are there who are under the great pressure during this epidemic.

### **The pandemic severely impacted the following industries:**

#### **Migrant workers and the labour force:**

India has roughly 139 million migrant labourers, according to the World Economic Forum (WEF). Migrants faced great hardships as a result of the pandemic.

The majority of the migrants are part-time or daily wage labourers. Many people were unable to work due to the shutdown. According to the International Labour Organization, the epidemic would force 400 million workers into poverty. The migrants were obliged to return to their villages due to their precarious position. Many migrants returned home by walking or cycling because they lacked money, food, and transportation. Physical separation was impossible due to the large number of people travelling. Over 300 migrant workers died from a variety of causes, including malnutrition, accidents, and a lack of adequate medical care. As the states relaxed their lockdown limitations, an inflow of migrants arrived.

#### **Food and agriculture:**

India's economy is based on agriculture. Food and agriculture account for 16.5 percent of GDP, the greatest contribution of any industry. Agriculture employs 43 percent of the entire workforce in the country. The pandemic struck during the Rabi season's climax, which is also when the crop arrives to mandis for sale by government agencies. Due to a lack of labour,

harvesting times have increased, resulting in an increase in the daily wage for harvesting crops. Fields and farms with modernised equipment were unaffected by the pandemic. Interstate and intrastate transportation restrictions exacerbated the problem. The inability to supply the harvested goods, along with failure to repay existing loans, further increased the losses.

### **Restaurants services:**

Aside from the countless roadside shops providing food, India boasts over 500,000 restaurants. The organised restaurant business generates an estimated 4.2 lakh crores in revenue, employs 7.3 million people, and contributes 3% to the country's GDP. Physical separation, business schedule constraints, and a lack of seating space all contribute to the absence of people dining at restaurants. The restaurant business has been saved from extinction thanks to online food delivery. Restaurant dining, on the other hand, has a bleak future. Cooking at home, aided by tutorials and videos, has become commonplace in most households. Only when the pandemic has passed will waiters and cleaners be able to return to work.

### **Handicraft:**

The handloom and handicrafts industries have also been seriously impacted by the pandemic. The pandemic aggravated an already drab industry. Their decline is aided by the absence of displays, the prohibition of the selling of non-essential commodities, and decreasing demand. The industry's exports dropped by 40% to \$2.1 billion from \$3.53 billion.

### **Micro, Small and Medium Enterprises:**

Micro, small, and medium firms are businesses with investments of one crore, ten crores, and fifty crores, respectively. One of the worst-affected sectors is the MSME sector. It employs 120 million people, exports 45 percent of the country's goods, and accounts for 37 percent of GDP. The MSME sector is the most susceptible under a climate of fear, decreasing demand, and a ban on the selling of non-essential commodities. Paying employees, rents, and negotiating with creditors are the most pressing issues. Garments, logistics, and consumer products are all experiencing significant declines. Businesses that rely on imports, such as pharmaceuticals, electrical devices, and consumer durables, are suffering as a result of the value chain's disruption.

## **Short Term Remedies:**

The administration has taken immediate action to assist the destitute, homeless, and elderly. Other measures include compensation for migrant and construction workers' economic disruptions, a welfare pension, job guarantees, and food distribution. The payment of loan instalments was put on hold for three months. To help relieve the crisis, the federal and state governments collaborated and implemented a plethora of solutions, including crop insurance, subsidies, agricultural credit, and MGNREGA incentives (Mahatma Gandhi National Rural Employment Guarantee Act, 2005). The centre has ordered the transfer of 52,000 crore in BOCW (Buildings and Construction Workers Cess) funds to the accounts of the workers by Direct transfer route. States also announced relief packages for the upliftment of the marginalized.

## **Measures announced by government:**

### **In the agricultural sector:**

E-NAM has undergone modifications as a result of the government's actions (National Agriculture Market). The goal was to clear out the marketplaces and improve agricultural marketing. The Kisan Sabha App was created by the CSIR. Farmers can connect with suppliers and transportation providers via the app. By cutting out the intermediary, profits are greatly increased. Contract farming brings consumers and farmers together, with consumers assisting farmers with their needs and farmers providing them with produce. Farmers have been able to limit their losses because to the adoption of DBT (Direct Benefit Transfer).

### **For migrants and the labour force:**

Several initiatives for migrants were announced by the finance minister. The states' proper implementation of the MGNREGA (Mahatma Gandhi National Rural Employment Guarantee Act) will help returning migrants in rural regions find work. Each citizen will receive 5 kilogrammes of food grain and 1 kg of Gram for two months, distributed through the states. The non-recipients of the National Food security can also avail of this. Migrant workers will be able to get food in the working states after the One Nation One Ration Card is implemented. The Pradhan Mantri Awas Yojana allows migrants to rent cheap housing in cities. Easy credit



policies would be facilitated by a credit package of 5000Cr for vendors. Crop loans of 30,000 crores have been received by rural and cooperative banks.

### **Micro, Small and Medium Enterprises:**

The government declared that NBFCs (Non-Banking Financial Corporations) will be able to lend money to MSMEs using the TREDIS platform. FinTech is being used to improve transaction-based financing. The establishment of a FOF (Fund of Funds) to aid the expansion of MSMEs has been announced. A credit guarantee scheme has been announced by SIDBI (Small Industries Development Bank of India) and the Ministry of Micro, Small and Medium Enterprises. Local involvement will be ensured by a restriction on global tenders in government procurements up to 200 crores.

### **Suggestions and remedies:**

#### **Alternate markets:**

Alternative marketplaces can dramatically reduce overcrowding and congestion in urban markets through decentralisation and home delivery, ensuring increased interaction between producers and buyers. Better transportation facilities will ensure that higher-quality items get at their destination sooner. The quantity and quality of the stored produce will rise if modern infrastructure is implemented.

#### **Restructuring APMC (Agricultural Produce Market Committee):**

The APMCs are inefficient, ineffectual, and antiquated. The APMCs must be restructured as soon as possible and replaced with direct purchases from FPOs (Farmer Producer Organizations), which are more efficient and effective. The purchaser is excluded from the market fee if they purchase directly.

#### **Strengthening digital infrastructure:**

Our country's digital inequality has been highlighted as a result of the pandemic. The benefits of Jan Dhan and Aadhaar have not reached everyone. The vast majority of Jan Dhan accounts

are inactive. In rural areas, there is a shortfall in the number of banks. For a recovery to occur, the digital divide must be bridged.

### **Better implementation of the Unorganized Workers Social Security Act, 2008:**

After registering with the Unorganized Workers Social Security Act, providing electronic chip-based ID cards will assist workers in getting benefits and defending their legal rights. The government-backed trade union might assist the workers in unionising as well as registering and relocating.

During the lockdown, significant hardships were caused by a lack of coordination between the centre and the states. They should collaborate to guarantee that food is distributed uniformly through the PDS (Public Distribution System). The food should be distributed by the states through the PDS outlets.

### **Ensuring better social and health security:**

Unorganized sector workers have little to no social and health insurance. The lack of security not only produces anxiety and ambiguity, but it also has a negative impact on productivity. The government must take steps to enhance citizens' living conditions. The standard of living of a country's population determines its progress.

## CHAPTER 4

### GOVERNMENT POLICIES AND SCHEMES FOR THE WELFARE OF UNORGANISED SECTOR WORKERS:

**4.1. POLICIES FOR UNORGANISED SECTOR:** There are many policies made by the Government for unorganised sector workers of India. Some are illustrated below:

**1. National policy on skill development:** Skills and knowledge are the driving forces behind any country's economic and social development. Countries with greater and better skill levels are better able to adapt to the challenges and opportunities of the workplace. In 2004-05, all persons in the labour force, including those entering the labour market for the first time (12.8 million annually), those engaged in the organised sector (26.0 million), and those employed in the unorganised sector (433 million), were potentially the target population for skill development. The skill development programmes currently have a capacity of 3.1 million people. India has set a goal of achieving skilling 500 million people by 2022.

Through enhanced skills, knowledge, and nationally and internationally recognised qualifications, the National Skill Development Initiative would enable all citizens to have access to good jobs and ensure India's competitiveness in the global market.

#### Objectives of the policy

The national strategy on skill development aims to:

- Provide chances for all people to learn new skills throughout their lives, with a focus on youth, women, and disadvantaged groups.
- Encourage all stakeholders to commit to their own skill development efforts.
- Create a high-quality skilled workforce/entrepreneur that is relevant to current and future labour market demands.
- Enable the creation of flexible delivery systems that respond to the peculiarities of a diverse set of stakeholders' needs.
- Facilitate effective cooperation between various ministries, the federal government and states, as well as public and commercial suppliers.

## **Scope of the Policy**

The National Policy on Skill Development covers the following topics:

- Institution-based skill development, such as ITIs/ITCs, vocational schools/technical schools/polytechnics/professional colleges, and so on.
- Sectoral skill development learning programmes organised by various ministries/departments.
- Apprenticeships, both formal and informal, and other types of training provided by businesses
- Self-employment/entrepreneurial development training
- Lifelong learning, adult education, and retraining of retired or retiring staff
- Non-formal education, such as that provided by civil society organisations
  
- E-learning, web-based learning, and distance learning are all examples of distance learning.

## **2. Safety health and environment at workplace:**

The Constitution of India provide detailed provisions for the rights of the citizens and also lays down the Directive Principles of State Policy which set an aim to which the activities of the state are to be guided. Government is committed to regulating all economic activities for the management of safety and health risks at workplaces and to providing measures to ensure safe and healthy working conditions for every working man and woman in the country, based on these Directive Principles as well as international instruments. The government understands that worker safety and health have a positive impact on productivity, as well as economic and social growth. As strong safety and health standards at work are as crucial as successful business performance for new and established industries, prevention is an inherent aspect of economic activity.

The policy seeks to bring the national objectives into focus as a step towards improvement in safety, health, and environment at workplace.

## **Objective**

The objectives are to achieve the followings:

- A steady decrease in the number of work-related injuries, fatalities, diseases, disasters, and national asset losses.
- Better coverage of work-related injuries, fatalities, and diseases, as well as a more comprehensive data base for improved performance and monitoring.
- Increasing community understanding of workplace safety, health, and environmental issues.
- Continually increasing community expectation of workplace health and safety standards.
- Improving safety, health, and environment at workplace by creation of “green jobs” contributing to sustainable enterprise development.

### **3. National policy on HIV/AIDS:**

The HIV/AIDS epidemic constitutes one of the most formidable challenges to development and social progress. The epidemic exacerbates poverty and inequality, putting a greater burden on society's most vulnerable citizens. Countries and organisations who fail to respond in a timely manner face significant costs in terms of reduced productivity, the loss of talented and experienced labour, and rising expenditures on employee treatment and related costs as the need for public services grows.

The National Council on AIDS, chaired by the Prime Minister of India, accords top priority to protection of workforce from HIV/AIDS.

- HIV/AIDS stigma and prejudice are a major obstacle in the fight against the disease.
- The Indian government has ratified the International Labour Organization's (ILO) Convention No. 111 on Discrimination (Employment and Occupation). As a result, a policy statement establishing a framework for non-discrimination against employees based on their actual or perceived HIV status is critical.

- India's growth will generate about 14 million jobs per year in the next 10 - 12 years. Most entrants will be young people and uncontrolled spread of HIV and its impact among them will affect economic growth.

### **Aim**

This strategy, which is founded on human rights principles, attempts to lead the national response to HIV/AIDS in terms of reducing and controlling the epidemic's impact in the workplace. The policy's specific goals are to:

- Prevent HIV infection among employees and their families
- Those who are infected have their rights protected, and they have access to available care, support, and treatment.
- Ensure safe migration and mobility by providing access to HIV/AIDS information services.
- Protect employees from stigma and discrimination connected to HIV/AIDS by assuring them fairness and dignity at work.

### **Scope**

This policy applies to all public and private sector employers and employees, all workplaces and employment contracts, all forms of labour – formal and informal, and self-employed workers, including their spouses, children, and other dependent family members.

Employers and workers organisations, national and state government ministries/departments, public/private sector companies, multi-national companies operating in India, and other social partners are encouraged to use this policy framework in developing and implementing workplace policies in their respective workplaces.

### **4. National child labour policy:**

During the Seventh Five Year Plan Period, the Cabinet approved the National Child Labour Policy on August 14, 1987. The programme was created with the primary goal of adequately rehabilitating children who had been removed from employment, hence reducing the frequency of child labour in places where it was known to exist.

## **Objective**

According to the 1991 census, there were about 1.1 crore children working. The Government has set a deadline to abolish child labour in the hazardous sector until the end of the Loth Plan, taking into account resource restrictions and current levels of societal consciousness and awareness. Elimination of all forms of child labour itself is a progressive process beginning with elimination efforts in the hazardous areas.

Under the scheme, the target group is all the children below 14 years of age and working in:

- Occupations and processes that are mentioned in the Schedule to the Child Labour (Prohibition & Regulation) Act, 1986; and/or
- Occupations and processes that are harmful to their health and mental well-being.
- In the latter category, the employment's risk to children should be fairly determined.

## **Programme Component**

It is proposed that the National Child Labour Projects focus on various developmental and welfare programmes for the benefit of child labourers in the project region. To meet the project's objectives, effective convergence and an integrated approach of the necessary social sector initiatives must be implemented. The following actions will be undertaken as part of the project in the 10th Plan:

- Stepping up of enforcement of child labour laws
- Formal Non -formal education
- Provision of Vocational Training
- Income and employment generation activities
- Direct rehabilitation of child labour
- Raising of public awareness
- Survey and evaluation

## **4.2. SOCIAL SECURITY SCHEMES FOR UNORGANISED SECTORS WORKERS:**

There are several schemes organised by government for social security and welfare of unorganised sector workers of India.

### **1. National Pension Scheme For, Traders, and The Self-employed Persons:**

This programme was created for Vyaparis under section 3(1) of the Unorganized Workers Social Security Act of 2008 to protect them in their later years. The goal of this scheme is to give social security and old-age protection to shopkeepers, traders, and self-employed people aged 18 to 40 who are not members of EPFO, ESIC, or PM-SYM and have an annual revenue of less than 1.5 crore rupees. They are the shopkeepers or owners who have petty or small shops, restaurants, hotels, real estate brokers etc.

### **2. Pradhan Mantri Shram Yogi Maandhan Yojana:**

The PM-SYM programme was created to safeguard unorganised employees such as street vendors, agricultural workers, construction site workers, workers in the leather, handloom, mid-day meal, rikshaw or auto wheelers, rag pickers, carpenters, and fishermen. The scheme aimed to provide social security to those who are not members of EPFO/ESIC and do not qualify as taxpayers between the ages of 18 and 40.

### **3. Pradhan Mantri Rozgar Protsahan Yojana:**

The government implemented this programme to provide incentives to firms in order to develop jobs for unskilled or semi-skilled employees. On behalf of employers that have registered with the employee's provident fund organisation, the government will make a complete contribution to the employees' provident scheme and fund. To avail this, benefit the employees must have a UAN (Universal Account Number).

Employees will get a 12% EPF contribution from the government for the first three years of their employment, but only if they stay with the same employer for the entire three years.

### **4. Aam Aadmi Bima Yojana:**



The initiative was introduced by the Government of India for people between the ages of 18 and 59 who have a household income that is below the poverty line (BPL) or marginally over the BPL and are in the vocational group.

This scheme functions as a social security scheme because it covers people who work in vocational groups or live in rural landless households, such as fisherman, rickshaw pullers, beedi workers, brick kiln workers, lady tailors, tannery workers, papadum workers, primary milk producers, tendu leaf collectors, and forest workers, among others.

People who benefit from this system can seek insurance from the nodal agency in the event of a mishap, such as permanent total disability, death as a result of an accident, or loss of one eye or limb as a result of an accident.

#### **5. Atal Beemit vyakti kalyan Yojana:**

The government would provide monetary assistance to anyone who will become unemployed under this scheme. Those who have worked for at least two years prior to the date of unemployment will be eligible for this. Only individuals who have been insured for at least 78 days throughout the preceding four contribution periods are eligible.

ESI Act 1948, section 2(9), covers those employees who are eligible for this scheme.

The relief can be claimed for a period of 90 days of unemployment only throughout the lifetime.

#### **6. Central Sector Scheme for Rehabilitation of Bonded Labourer, 2016:**

This programme was originally implemented in 1975, and it required the state government to locate, rescue, and rehabilitate bonded labourers, with the federal government providing financial assistance on a 50-50 basis. Since then, the design has been altered multiple times, most recently in 2016.

Following the revisions to the scheme's guidelines, the state government will no longer be required to pay any financial support for the rehabilitation of bonded labourers; instead, the

ministry of labour and employment will grant up to 4.5 lakhs in aid for each district. The amount they will receive will be deposited in the annuity scheme making them the beneficiary for e.g. If it an adult male then 1 lakh, if it is some women, children, or transgender then three-lakhs.

### **7. Gatidhara Scheme for Self-employment:**

The West Bengal government launched the Gatidhara initiative. This scheme was tied to the transportation department, and it aimed to provide jobs to young people who had registered as unemployed. They would find work in the state of West Bengal's transportation sector.

Eligibility: This scheme will employ anyone between the ages of 20 and 45 who has a monthly family income of less than 25,000 rupees. Only one member of each family was eligible to apply.

The beneficiaries would receive a subsidy of up to 1,00,000 rupees, or 1.5 lakhs if they are female.

### **8. Pradhan Mantri Jeevan Jyoti Bima Yojana (PMJJBY)**

PMJJBY, which is part of the Ministry of Finance, offers unorganised workers a Rs. 2 lakh life insurance policy at a fee of Rs. 330 per year. It is for people between the ages of 18 and 50.

### **9. Pradhan Mantri Suraksha Bima Yojana (PMSBY)**

Unorganized workers are covered by PMSBY, which is run by the Ministry of Finance. It pays out Rs. 2 lakhs in the event of accidental death or total disability, and Rs. 1 lakh in the event of partial disability, for a premium of Rs. 12 per year. It is appropriate for those aged 18 to 70.

### **10. Pradhan Mantri Kisan Man Dhan Yojana (PM-KMY)**

Small and marginal farmers who reach the age of 60 are eligible for a pension of Rs 3,000 per month from PM-KMY, which is administered by the Ministry of Agriculture and Farmers Welfare. Depending on the age of admission, the eligible farmer must contribute between Rs. 55 and Rs. 200 per month.

### **11. Pradhan Mantri Kisan Samman Nidhi (PM-KISAN):**

PM-KISAN is an income support scheme that offers up to Rs. 6,000 per year to small and marginal farmers to help them meet their financial needs. Its goal is to improve farmers' economic security.

### **12. Atal Pension Yojana:**

This system was designed to provide social security to employees in the private sector and unorganised sectors who do not receive pension benefits upon retirement. If you wish to take advantage of this scheme, you must be an Indian citizen between the ages of 18 and 40 and have an Aadhar-linked bank account.

The contributor can either receive a pension of 1000-5000 rupees or an accumulated sum of the pension after his death, depending on his preference. The cumulative amount will be given to the spouse, or the nominee if the spouse is deceased. The contributor must have worked for at least 20 years in order to qualify. This scheme gives a sense of social security to the person in case of accident, illness, or diseases etc.

### **13. Rashtriya Swasthya Bima Yojana:**

This programme aims to assist BPL workers with socioeconomic security by providing health insurance. If a person is classified as BPL and has a family of five people, he or she can apply for this programme.

The federal government will fund 75 percent of the total, while the state government will contribute 25%. The beneficiaries just have to pay a registration fee of thirty rupees as premium per annum.

Each household engaged in the scheme will get a yearly insurance pay out of 30,000 rupees. Currently, three crore people are enrolled in the scheme.

The insured money will cover medical expenditures, any previous illnesses, and any common illnesses.

### **14. Revised Integrated Housing Scheme:**

Workers in mines such as iron, manganese, limestone, and mica will benefit from the programme. Workers should be registered with a labour welfare group for a minimum of one

year. In Indian territory, the applicant cannot have a pucca house of his own or of anyone linked to him. The candidate must not have previously benefited from any other housing initiative.

It is also required that the applicant must have land for residential purpose either on owned or leased for 20 years which can be extended. The scheme has a lot of requirements for minor workers, such as the land must be at least 60 square feet for the general category and the house must be built within 18 months, but it also has a lot of benefits for the beneficiaries, such as a subsidy of 1,50,000 for building the house in three instalments into the beneficiary's bank account. The deposit does not have to deposit any sum of money to withdraw the subsidy from the bank account deposited by the government.

#### **15. Garib Kalyan Rozgar Yojana:**

The project was purchased by the Indian government in June 2020 with a budget of 50,000 crore rupees to create employment prospects for migrant workers. This method was purchased in response to COVID-19, during which many workers were relocated from one location to another, resulting in significant financial losses due to the loss of employment during the lockdown period.

PM Kusum Works, cow sheds, poultry sheds, goat sheds, Shyama Prasad Mukherjee RURBAN mission, workers on national highways, well construction, and other locations were identified for this project, bringing the total number of relocated workers to 670,000.

The scheme will provide work for a total of 125 days.

#### **16. Mahatma Gandhi Bunkar Bima Yojana:**

This programme was created in 2005 to provide insurance benefits to workers in the handloom industry. As can be seen, the scheme provides insurance benefits to workers in the handloom industry if they suffer a casualty that results in death or partial or total disability.

Applicants must be employed by the state handloom development organisation and be between the ages of 18 and 59. In the event of a natural death, an amount of 60,000 rupees will be granted, whereas in the event of an accidental death and total handicap, 1,50,000 rupees would be provided.

A 330-rupee annual premium will be paid, with 150 rupees coming from the Indian government and 100 rupees from the Life Insurance Corporation of India. The nicest thing is that the weaver does not have to pay a premium.

### **17. Deen Dayal Updhyaya Antyodaya Yojana (DAY):**

The Ajeevika scheme has been superseded by the DAY scheme, which aims to train individuals in both rural and urban areas. Its goal was to train half a million urban residents and one million rural residents by the end of 2016 and 2017, respectively.

The plan intends to create jobs by offering training to people and enabling them to become self-employed through credit arrangements, allowing them to start small businesses or self-help organisations in metropolitan areas.

The scheme established the SVEP, which is a village entrepreneurship programme that functions as a sub-scheme. By subsidising and supporting the disadvantaged, the scheme strives to improve skills and self-employment.

### **18. Nirman Kamgar Awas Sahayata Yojana:**

Construction Workers mostly come from the poor or rural sections of the society. Therefore, most of them do not have the convenience of their home. They also lack the financial means to construct or purchase their own home. With this in mind, the Uttar Pradesh Building and Other Construction Employees Welfare Board offers construction workers the "Construction Worker's Housing Assistance Scheme." Workers are offered financial aid to build or purchase a home under this programme.

The amount of aid is 1 lakh rupees. It is split into two halves and paid in two instalments. Aside from building a house, the Uttar Pradesh government also assists labourers with house repairs, which cost Rs 15,000 each. However, the same beneficiary does not receive both advantages at the same time.

## CHAPTER 5

### LABOUR LAW'S ON UNORGANISED SECTOR WORKERS AND IT'S JUDICIAL DECISIONS:

Legislative Measures Providing Social Security to Workers in India. In addition to the Constitutional provision, the principal social security laws enacted in India from time to time have been discussed in the following pages.

#### 1.The Employee's (Workmen's) Compensation Act, 1923:

The Employees Compensation Act is a social security law that took effect on March 5, 1923. This Act is often regarded as the first social security legislation. The Act's principal goal is to make companies responsible for compensating employees for accidents that occur during the course of their job. The Act covers anyone working in railway factories, mines, plantations, mechanically propelled vehicles, ship loading and unloading, road and bridge construction, maintenance, and repairs, electricity generation, cinemas, circuses, and other hazardous occupations, as well as other occupations listed in Schedule II of the Act. Employees covered by the Employees' Compensation Act are exempt from the Act. A person employed but not a casual employee is referred to as a "workman" under the Act. As specified in section 2 (dd) of the Employees' Compensation Act 1923, every individual employed in the construction of any building falls within the definition of "employee" as defined in clause (viii) of Schedule II. The compensation has to be paid by the employer to a workman for any personal injury caused by an accident arising out of and in the course of his employment<sup>33</sup>. Compensation Act cannot be barred by Limitation Act<sup>34</sup>. In **Laxmi Dhar Kumbhar v. divisional Manager Orrisa, forest development corporation Ltd, at Budharaja Dist. Sambalpur** The claimant is not entitled to compensation unless the claimant can show that the accident was caused by his or her job and that it happened while he or she was working. The amount of compensation in the event of death is equal to fifty percent of the dead worker's monthly income multiplied by the relevant factor. If you are permanently disabled as a result of an injury, you are entitled to sixty percent

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<sup>33</sup> Section 3, The Employees' Compensation Act, 1923.

<sup>34</sup> National Insurance Co. Ltd. vs. Abhy Ram and Others, 2015

of your monthly salary multiplied by the relevant figure, or sixty thousand dollars, whichever is higher. If the workman's monthly wages exceed two thousand rupees, his monthly pay shall be assumed to be two thousand rupees only for the purposes of the foregoing. In **United India Insurance Company Limited Gulbarga v. Vijay Nath and another**, the Karnataka High Court held that when there is no established employee-employer relationship between injured and owner, injured is not entitled to payment of compensation under the Act.

## **2. The Employees State Insurance Act, 1948:**

Various Commissions and Committees created by the government from time to time have always been concerned with the health and wellbeing of workers. In 1928, the Indian government sympathetically considered the subject of providing workers with sickness insurance. It was materialized in the year 1944 after submission of Professor Adarkar's report<sup>35</sup>. Professor Adarkar's Scheme was passed by Legislative Assembly in April, 1948 as Employees' State Insurance Act. This was the first social security legislation adopted by the country after independence<sup>36</sup>. The Employees State Insurance Act was enacted with the object of introducing a scheme of health insurance for industrial workers. The Employees State Insurance Act of 1948 currently covers factories employing ten or more people who use electricity in the manufacturing process, as well as non-electric factories, shops, hotels, and restaurants, cinemas, pre-view theatres, road motor, and transportation undertakings, and newspaper establishments employing twenty or more people. The employees of factories and establishments drawing wages up to rupees seven thousand five hundred, per month are covered under the scheme. The scheme is administered by a separate body called the Employees' State Insurance Corporation<sup>37</sup> which includes representatives of employer, employers, Central and State Governments, medical profession and the Parliament. Employer and employee payments are the primary sources of funding for the Scheme. The employer contributes 4.75 percent of the earnings paid to employees, while the employees contribute 1.75 percent of their pay.

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<sup>35</sup> The first document on social insurance was "Report on Health Insurance" submitted to the Tripartite Labour Conference, headed by Prof. B.P. Adarkar, an eminent scholar and visionary. The Report was acclaimed as a worthy document and forerunner of the social security scheme in India.

<sup>36</sup> Government of India, Report of the Working Group on Social Security, (Planning Commission, 2006).

<sup>37</sup> Section 3, The Employees' State Insurance Act, 1948.

The State Government's portion of medical care expenditures is 12.5 percent of total medical care expenditures. The Act provides both monetary and non-monetary advantages, such as medical coverage. The cash benefits are as follows: (a) Sickness benefit- payable in cash at around 50% of salary for a maximum of ninety-one days. (a) Maternity benefit—payable at a rate of roughly full wage for twelve weeks of confinement, six weeks for miscarriage, and an additional one month for sickness deriving from pregnancy; (c) Temporary disablement benefit - payable at a rate of around 70% of wages for the duration of the disability; (d) Permanent disablement benefit- payable as a periodic payment for the rest of one's life, based on the level of loss of earning capacity as decided by a fully constituted Medical Board. (e) Funeral Expenses, up to Rs. 2,500 in actual funeral expenses for a deceased insured person.

### **3. The Industrial Disputes Act, 1947**

This Act becomes effective on April 1, 1947. The Industrial Disputes Act's goal is to maintain industrial peace and harmony by establishing apparatus and procedures for investigating and resolving industrial disputes through discussions. Only the organised sector is covered by the laws. The Act's regulations under Chapter V-A apply to industrial establishments that are not seasonal in nature and employ at least fifty workers on a year-round basis. If an employee is laid off, the employer must compensate the employee for the days they were laid off at a rate of fifty percent of the basic salary plus D.A., up to a maximum of fifty percent of the basic income plus D.A subject to maximum 45 days. The employer cannot fire the employee unless the employee is given one month's notice or a payment in place of notice. (b) fifteen days' salary multiplied by the number of years of continuous employment; and (c) notice to the competent government detailing the grounds for the retrenchment. Worker's right to seek wages for employment is likewise protected by the Act. In **Jharkhand State Food and Civil Supplies Corporation Ltd. through District Manager, Dhanbad v. Devendra Parsad Yadav**, the Jharkhand High Court held that there is no dispute that the award has attained finality. In so far as the reinstatement of the respondent in service is concerned, the employment of the respondent workman with petitioner corporation confers a pre-existing right in the respondent to claim wages from the petitioner corporation. Employees are entitled to sixty days' notice before to closure and compensation comparable to retrenchment up to three months' salary in the event of closure. if the shutdown is unavoidable. Chapter V-B, introduced by an amendment in 1976, requires firms employing three hundred or more workers to obtain government permission for layoffs, retrenchments, and closures. A further amendment in 1982,



which took effect in 1984, expanded its ambit by reducing the threshold to hundred workers. In **Bhav Nagar Municipal Corporation etc v. Jadeja Govubha Chhanubha and other**, the Supreme Court held that it is well settled that for an order of termination of the services of a workman to be held illegal on account of non-payment of retrenchment compensation. In **Smt. Asha Pandey v. Coal India Ltd. and another**, the Chhattisgarh high court held that National Coal Wages Agreement is binding settlement. Its terms should be reasonable and fair and consistent with Article 14 and 15 of Constitution.

#### **4. The Factories Act, 1948:**

The Act's principal goals are to maintain proper safety measures, as well as to improve the health and wellbeing of factory workers and to prohibit firms from expanding haphazardly. The Factories Act, 1948 contains the provisions to regulate the working conditions in factories, to regulate health<sup>38</sup>, safety, welfare, and annual leave with wages. According to the provision of working hours of adults, no adult worker shall be required or allowed to work in a factory for more than 48 hours in a week. There should be a weekly holiday. No adult worker shall be required or allowed to work in a factory for more than nine hours in any day. Extra wages for the overtime done by the worker should be paid. In **Hemant Madhusudan Nirurkar v. State of Jharkhand and another**, the Jharkhand high court imposed a penalty of Rs. 50000 on M/s Tata Steel Ltd. for non-compliance of the provision of the Act as the contract labour engaged were being forced to do overtime without giving overtime slip which was the violation of the Rule 103 A of Factory Rules 1950. Women and children should not be asked or allowed to work between the hours of 7 p.m. and 6 a.m., and certainly not between the hours of 10 p.m. and 5 a.m. There will be no employment for children under the age of 14. The Act mandates that every factory be kept clean and that all essential steps be taken in this regard in order to preserve workers' health. The factories should have proper drainage, lighting, ventilation, and temperature controls, among other things. It is necessary to make adequate arrangements for drinking water. There should be enough latrines and urinals in handy locations. Under this Act, the State Government may appoint an inspector to conduct factory inspections to ensure that safety precautions are taken. It is an offence to contravene the terms of The Factories Act, 1948, or any rules adopted under the Act, or any order delivered in writing under the Act. There are

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<sup>38</sup> Chapter (III), The Factories Act having Section 11 to Section 20 deals with the provisions relating to the health of workers working in a factory

a variety of punishments that can be imposed: (a) A period of imprisonment of up to three months; (b) A fine of up to one lac rupees; or (c) Both fine and imprisonment.

#### **5. The Minimum Wages Act, 1948:**

This Act is largely intended to protect the interests of unorganised sector workers who are exposed to exploitation due to illiteracy and a lack of bargaining power. The Act obligates employers to pay workers the minimum wages set by the State and Federal governments from time to time under their respective authorities. This Act prohibits discrimination between male and female workers on the issue of wages. Delhi High Court in **Director General of Works, C.P.W.D. and Others v. Sushil Kumar and Others**, held that section 14 of the Minimum Wage Act 1948 would not be applicable where wages being paid to workman are in excess of minimum wages fixed under Act (Including overtime allowance). In **Workmen v. Orient Paper Mills Ltd.**, the Supreme Court has held that in considering the revision of minimum wages the total wage packet including basic wages, dearness allowance and production bonus are to be considered. Employers are prohibited from paying less than the minimum wage under Section 12 of the Act. The National Minimum Wages were periodically amended by the Central Government in response to proposals from various working groups.

#### **6. The Employees' Provident Funds & Miscellaneous Provisions Act, 1952:**

This is yet another piece of welfare legislation adopted for the goal of establishing a Provident Fund for factory and other establishment employees. The purpose of this Act is to give monitoring help to industrial employees and their families when they are in difficulty or unable to satisfy their family and societal obligations, as well as to protect them in old age, disablement, and early death of breadwinners. It applies (a) to every establishment which is a factory engaged in any industry specified in Schedule I and in which twenty or more persons are employed and (b) to any other establishment employing twenty or more persons or class of such establishments which the Central Government may, by notification in the Official Gazette, specify. In **Polythene Bag Factory v. Assistant P. F. Commissioner**, the Court held that section 16 of the Employee's Provident Fund and Miscellaneous Provision Act, 1952 prescribe the category of establishment that is excluded from the preview of the Act. It was held that it is not dispute that till particular year, the number of employees was less than 20, but in specific year the number of employees has been reached 20. Therefore, the Act becomes applicable to the establishment. The Fund is constituted on the basis of equal contribution from employers

and employees<sup>39</sup>. The normal rate of contribution is 12% of the employee's salary. The sum in the contributor's account can be withdrawn at the time of retirement from service, after reaching the age of superannuation, or due to permanent or total infirmity, migration from India, retrenchment, or voluntary retirement under this scheme. In **Rajamma K.T. Thrissur Dist., vs. Assistant Provident Fund Commissioner (Pension) Employees Provident Fund Organization, Ernakulam District and Another**, the Kerala High Court held that in the case of dependent parents if there is no nomination given by the employees the pension would have to be first granted to the father and upon the father's death to the mother, till the latter's life time.

### **7. The Maternity Benefit Act, 1961:**

The Maternity benefit Act came into force on 12th December, 1961. This Act is enacted to regulate the employment of women in certain establishments for certain periods before and after childbirth and to provide for maternity benefits and certain other benefits. The philosophy behind this legislation is that pregnancy and maternity are an especially vulnerable time for working women and their families. International Labour Organization Convention<sup>40</sup> provides for 14 weeks of maternity benefit to women to whom the instrument applies. Women who are absent from work on maternity leave shall be entitled to a cash benefit which ensures that they can maintain themselves and their child in proper conditions of health and with a suitable standard of living and which shall be no less than two-thirds of her previous earnings. The standards also prohibit employers to terminate the employment of a woman during pregnancy or absence on maternity leave. Women returning to work must be returned to the same position or an equivalent position paid at the same rate. This is a social legislation enacted for the welfare of the working women. The Act prohibits working of the pregnant women for a specified period before and after delivery<sup>41</sup>. It also provides for maternity leave and payment of monetary benefits for women workers during the period when they are out of employment due to pregnancy<sup>42</sup>. The maximum period for maternity benefit is fixed as 12 weeks, six weeks before delivery and 6 weeks immediately after delivery. The judicial approach is also protective on this matter. In a recent decision **Jyoti Suhag v. State of Haryana and others**, Punjab and Haryana high court held that Act does not restrict maternity benefit to birth of only two children

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<sup>39</sup> Section 6, The Employees' Provident Funds & Miscellaneous Provisions Act, 1952

<sup>40</sup> ILO Convention No. 183, Maternity Protection (2000).

<sup>41</sup> Section 4, The Maternity Benefit Act, 1961.

<sup>42</sup> Section 5, The Maternity Benefit Act, 1961.

relevant rules restricting benefits to two children is not inconsonance with the provision of the Act. In **Tata Tea Ltd. v. Inspector of Plantation**, Kerala High Court has held that the employer can not compel the woman under maternity leave to work on the holiday under the National and Holiday Act, 1958. In **Kiran v. State of Haryana**, Punjab and Haryana High Court allowed the six-month maternity leave to the contractual employee which is only admissible to the regular employees of the State Government. The Union Government is also positive on this matter and is ready to set the increase of the maternity leave for women employed in private firms from the existing 12 weeks to 26 weeks. Some changes have recently been made to the Act introducing the Maternity Benefit (Amendment) Bill, 2016 in Parliament, which governs the employment of women in factories, mines, plantations, and shops or establishments employing ten or more people, with the exception of employees covered by the Employees' State Insurance Act, 1948. This amendment has been made on the recommendations of 44th Session of Indian Labour Conference (ILC), which recommended enhancing maternity leave under Maternity Benefit Act, 1961 from existing twelve weeks to twenty-four weeks.

#### **8. The Payment of Gratuity Act, 1972:**

Gratuity is a voluntary payment made by the employer to the employee in recognition of continuous, meritorious services and sincere efforts by the employee towards the organization. It is governed under the Payment of Gratuity Act 1972. It is a social security enactment. The provisions of the Act will apply to (a) every factory, mine, oilfield, plantation, port and railway company; (b) every shop or establishment within the meaning of any law for the time being in force in relation to shops and establishments in a State, in which ten or more persons are employed, or were employed, on any day of the preceding twelve months; (c) such other establishments or class of establishments, in which ten or more employees are employed, or were employed, on any day of the preceding twelve months, as the Central Government may, by notification, specify in this behalf<sup>43</sup>. Every employee other than an apprentice irrespective of his wages is entitled to receive gratuity after he has rendered continuous service for five years or more. In a case **Chandrabhaga Machindra Dudhade v. Mahatma Phule Karushi Vidhyapeeth, Ahmadnagar** the court held that Payment of gratuity become applicable to every employee who has worked continuously for five years notwithstanding whether he is a permanent employee or not. Gratuity shall be payable to an employee on the termination of his

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<sup>43</sup> Section 1(3), The Payment of Gratuity Act, 1972.

employment after he has rendered continuous service for not less than five years, (a) on his superannuation, or (b) on his retirement or resignation, or (c) on his death or disablement or due to accident or disease<sup>44</sup>. In the case of death of the employee, gratuity payable to him shall be paid to his nominee or, if no nomination has been made, to his heirs, and where any such nominees or heirs is a minor, the share of such minor shall be deposited with the controlling authority who shall invest the same for the benefit of such minor in such bank or other financial institution, as may be prescribed, until such minor attains majority. The Act provides that the amount of gratuity payable to an employee shall not exceed ten lakh rupees. The wages for the period preceding his disablement shall be taken into account when estimating the gratuity given to an employee who is engaged on reduced wages following his disablement. The benefits are computed as fifteen days of earnings for each year of service or part thereof in excess of six months, depending on the employee's most recent wage rate.

### **9. The Building and Other Construction Workers' (Regulation of Employment and Conditions of Service), Act, 1996:**

In building and other construction works more than eight million workers are engaged throughout the country. These workers are one of the most vulnerable segments of the unorganized labour in India and their work is of temporary nature, the relationship between employer and the employee is temporary, working hours are uncertain. Basic amenities and welfare facilities provided to these workers are inadequate. Risk to life and limb is also inherent. In pursuance to the decision of the 41st labour ministers conference held on 18th may, 1995, the Committee of State Labour Ministers had expressed its consensus for the Central Legislation on this subject. 'The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Bill' having been passed by both the Houses of Parliament received the assent of the President on 19th August, 1996. The Act provides a definition to the Building Worker as "a person who is employed to do any skilled, semiskilled or unskilled manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be expressed or implied, in connection with any building or other construction work but does not include any such person (i) who is employed mainly in a managerial or administrative capacity; or. (ii) Who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per exercise. Further the Act deals with the registration of establishments and make it mandatory for the employers to get

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<sup>44</sup> Section 4, The Payment of Gratuity Act, 1972.

registered the establishments to which this Act applies on its commencement, within a period of sixty days from such commencement. After registering the establishment, a certificate of registration to the employer shall be issued by the registering officer. It also provides that every building worker who is between the age of eighteen and sixty and who has been engaged in any building or other construction work for not less than ninety days during the last twelve months is eligible for registration as a beneficiary of the building and other construction workers' welfare fund. The Act also contains the provisions for the constitution of welfare boards. Functions of the Boards are to (a) provide immediate assistance to a beneficiary in case of accident; (b) make payment of pension to the beneficiaries who have completed the age of sixty years; (c) sanction loans and advances to a beneficiary for construction of a house, (d) give such financial assistance for the education of children of the beneficiaries as may be prescribed; (f) meet such medical expenses for treatment of major ailments of a beneficiary or, such dependant, as may be prescribed; (g) make payment of maternity benefit to the female beneficiaries.

#### **10. Mahatma Gandhi National Rural Employment Guarantee Act, 2005:**

This legislation is a flagship programme of Government of India. This Act (MGNREGA) is job guarantee legislation for rural Indians. It was come in to force on 5th September 2005 as National Rural Employment Guarantee Act. In 2009 this Act was renamed as Mahatma Gandhi National Rural Employment Guarantee Act. The Act guarantees at least 100 days of paid work in rural areas in a year. The employment programme under the Act aims at enhancing livelihood security of the households in rural areas by providing at least 100 days of guaranteed wage employment in a financial year to every household whose adult members volunteer to do unskilled manual work. The Act seeks to create durable assets and strengthen the livelihood resource base of the rural poor. Other objectives of the Act include Reduction of distress migration from rural to urban and from one part of rural to another rural area, creation of durable assets in villages, overall development of the rural economy, promotion of inclusive growth and development. The salient features of the Act are as follow: (i) All adult members of a rural household willing to do unskilled manual work have the right to demand employment. (ii) Such a household will have to apply registration to the Gram Panchayat (iii) After verification, the Gram Panchayat will issue a Job Card with photograph of all adult members of the household willing to work under the programme. (iv) The Job Card must remain in the custody of the household. (v) Job Card holder can apply for work to the Gram Panchayat which

will issue him/her a dated receipt of the work application (vi) Employment will be provided by the Gram Panchayat within 15 days of work application, failing which unemployment allowance will be paid. vii) Disbursement of wages has to be done weekly basis and not beyond a fortnight. (viii) Panchayati Raj Institutions will have a principal role in planning, monitoring and implementation. This Act provides unemployment allowance also. If an applicant is not provided employment within fifteen days of receipt of his/her application seeking employment, he/she shall be entitled to a daily unemployment allowance.

## **5.2. NEW AND RECENT DEVELOPMENT OF LABOUR LAW'S ON UNORGANISED WORKERS:**

On the recommendations of the Second National Commission on Labour (2002), the Central Government proposed to replace 29 existing Labour Laws with four Codes to simplify and modernise labour regulation. The major challenge was to facilitate employment growth while protecting workers' rights.

The Labour Codes which were passed in both the Houses of the Parliament and received Presidential Assent are as follows:

1- Code on Wages

2- Industrial Relations Code

3- Social Security Code

4- Occupational Safety, Health and Working Conditions Code

### **5.2.1. The Occupational Safety, Health and Working Conditions Code, 2020**

The Occupational Safety, Health and Working Conditions Code, 2020 was introduced in Lok Sabha on 19 September 2020 and was passed on 22 September 2020. The Bill was passed in Rajya Sabha on 23 September 2020. It received Presidential assent on 28 September 2020.

**1- Aim:** The code aims to consolidate and amend the laws regulating the occupational safety, health and working conditions of the persons employed in an establishment.

**2- Laws Replaced:** The Occupational Safety, Health and Working Conditions Code, 2020 replaces 13 existing Laws: (a) The Factories Act, 1948 (b) The Mines Act, 1952 (c) The Dock Workers (Safety, Health and Welfare) Act, 1986 (d) The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (e) The Plantations Labour Act, 1951 (f) The Contract Labour (Regulation and Abolition) Act, 1970 (g) The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (h) The Working Journalist and other News Paper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 (i) The Working Journalists (Fixation of rates of wages) Act, 1958 (j) The Motor Transport Workers Act, 1961 (k) The Sales Promotion Employees (Condition of Service) Act, 1976 (l) The Beedi and Cigar Workers (Conditions of Employment) Act, 1966 (m) The Cine-Workers and Cinema Theatre Workers Act, 1981.

**3- Factory:** It is a premise where at least 20 employees work for a process with power and 40 employees work for a process without power.

**4- Establishments engaged in hazardous activity:** The Code will be applicable to all the establishments where any hazardous activity is carried out regardless of the number of workers.

**5- Working Hours:** No worker in any establishment will work for more than 8 hours a day and 6 days a week.

**6- Overtime:** In the case of overtime, the employee is entitled to overtime compensation (at least twice the normal wages). It will also be applicable to a small establishment having up to 10 workers.

**7- Gender Discrimination:** The Code prohibits discrimination based on gender and empowers the women workforce.

**8- Women Employment:** Women employed in all the establishments for all types of work will be able to work before 6 a.m. and beyond 7 p.m. subjected to their consent, safety, holidays and working hours.

If women are required for undertaking dangerous operations, the employer will provide adequate safeguards to them prior to their employment.

**9- Rights of Transgenders:** It is mandatory for all the establishments to provide washrooms, bathing places and locker rooms for male, female and transgender employees.

**10- Rights of Contractual Workers:** The Code prohibits contract labour in core activities except (i) the normal functioning of the establishment is such that the activity is ordinarily done through a contractor, (ii) the activities are such that they do not require full-time workers for the major portion of the day, or (iii) there is a sudden increase in the volume work in the core



activity which needs to be completed in a specified time. This Code will be applicable to contract labour engaged through a contractor in the offices of the Central and State Governments (where the respective government is the principal employer).

**11- Inter-state migrant workers and unorganized workers:** Any person who went to another state and obtained employment there will be regarded as an inter-state migrant worker. Only those people who are earning maximum wages as notified by the Central Government will be considered as inter-state migrants.

The inter-state migrant workers are entitled to certain benefits such as (i) option to avail the benefits of the public distribution system either in the native state or the state of employment, (ii) availability of benefits available under the building and other construction cess fund in the state of employment, and (iii) insurance and provident fund benefits available to other workers in the same establishment.

The Central and State Governments will also maintain the details of the inter-state migrant workers in a portal.

**12- Social Security Fund:** For the welfare of unorganised workers, the Government will establish a Social Security Fund. The amount received from the composition of the offences under the Code will be credited to the Fund. It may also be funded by such other sources as may be prescribed by the Government.

**13- ‘Spread over time’ introduced:** On 19 November 2020, the Ministry of Labour and Employment proposed maximum 12 hours working in a day inclusive of intervals under the Occupational Safety. It also said that no worker should be required or allowed to work in an establishment for more than 48 hours in any week.

### **5.2.2. The Code on Social Security, 2020**

The Code on Social Security, 2020 was introduced in Lok Sabha on 19 September 2020 and was passed on 22 September 2020. The Bill was passed in Rajya Sabha on 23 September 2020. It received Presidential assent on 28 September 2020.

**1- Aim:** It aims to extend social security to all employees and workers either in the organised or unorganised or any other sectors.

**2- Laws Replaced:** The Code on Social Security, 2020 replaces 9 existing laws: (a) The Employees’ Provident Funds and Miscellaneous Provisions Act, 1952 (b) Payment of Gratuity

Act, 1972 (c) Employees' Compensation Act, 1923 (d) Maternity Benefit Act, 1961 (e) Employees' State Insurance Act, 1948 (f) Workers Cess Act, 1996 (g) Cine Workers Welfare Fund Act, 1981 (h) Building and Other Construction and Unorganised Workers' Social Security Act, 2008 (i) Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959.

**3- Entitlements:** The Central Government by notification can apply this Code to any establishment subjected to the size-threshold as may be notified.

**4- Social Security Funds:** The Social security funds for unorganised workers, gig workers and platform workers will be set up by the Central Government. The State Governments will also set up and administer separate social security funds for unorganised workers.

The Code also makes provisions for the registration of-- unorganised workers, gig workers and platform workers.

**5- National Social Security Board:** In addition to the unorganised workers, it will also administer schemes for the welfare of gig workers and platform workers. The Board will comprise of five representatives of aggregators appointed by the Central Government, five representatives of gig workers and platform workers appointed by the Central Government, Director General of the ESIC and five State Governments representatives.

The number of representatives of Central Government officials in the Board from 5 to 10 members and in the State Boards from 7 to 10 members for unorganised workers.

**6- Role of aggregators:** The welfare schemes for the gig and platform workers will be funded through a combination of contributions from the Central Government, State Governments, and Aggregators. It mentions nine categories including ride-sharing services, food and grocery delivery services, content and media services, and e-marketplaces.

It is to be noted that any contribution from the aggregator may be at a rate notified by the Government between 1-2% of the annual turnover of the aggregators and must not exceed 5% of the amount paid or payable by an aggregator to gig workers and platform workers.

**7- Gratuity:** For working labours, gratuity period is reduced from five to three years.

**8- Offences:** The Code specifies penalties for certain offences such as (i) maximum imprisonment for obstructing an inspector from performing his duty has been reduced from one year to six months (ii) unlawfully deducting the employer's contribution from the

employee's wages has been changed from imprisonment of one year or fine of Rs 50,000 to only fine of Rs 50,000.

**9- Additional Powers:** The central government may defer or reduce the employer's or employee's contributions (under PF and ESI) for a period of up to three months in the case of a pandemic, endemic, or national disaster.

### **5.2.3. The Industrial Relations Code, 2020**

The Industrial Relations Code, 2020 was introduced in Lok Sabha on 19 September 2020 and was passed on 22 September 2020. The Bill was passed in Rajya Sabha on 23 September 2020. It received Presidential assent on 28 September 2020.

**1- Aim:** It aims to consolidate and amend the laws relating to Trade Unions, conditions of employment in industrial establishment or undertaking, investigation and settlement of industrial disputes.

**2- Laws Replaced:** The Industrial Relations Code, 2020 replaced 3 existing laws: (a) the Trade Unions Act, 1926 (b) The Industrial Employment (Standing Orders) Act, 1946 (c) The Industrial Disputes Act, 1947.

**3- Exemption:** The Government may exempt any new industrial establishment or class of establishments from the provisions of the Code in the public interest.

**4- Standing Orders:** All industrial establishments with at least 300 workers must prepare standing orders on the matters related to (i) classification of workers, (ii) manner of informing workers about work hours, holidays, paydays, and wage rates, (iii) termination of employment, and (iv) grievance redressal mechanisms for workers.

**5- Permission for closure, lay-off and retrenchment:** All industrial establishments with at least 300 workers are required to seek prior permission of the government before closure, lay-off, or retrenchment.

**6- Negotiating Union:** The trade union having more than 51% of the workers as members would be recognised as the sole negotiating union in cases where more than one registered trade union of workers are functioning in an establishment.

**7- Negotiation Council:** If there's no eligible sole negotiating union, a negotiating council will be formed having at least 20% of the workers as members.

**8- Termination of the services:** The disputes related to the discharge, dismissal, retrenchment, or termination of the services of an individual worker will be an industrial dispute. The worker may apply to the Industrial Tribunal for adjudication of the dispute.

**9- Prior Notice:** The workers in factories will have to give notice at least 14 days in advance to employers if they want to go on strike.

#### **5.2.4. The Code on Wages, 2019**

The Code on Wages, 2019 was introduced in Lok Sabha on 23 July 2019 and was passed on 30 July 2019. The Bill was passed in Rajya Sabha on 2 August 2019. It received Presidential assent on 8 August 2019.

**1- Aim:** It aims to regulate wage and bonus payments in all employments (industry, business, trade and manufacture).

**2- Laws Replaced:** The Code on Wages replaces 4 existing Laws: (a) Minimum Wages Act, 1948 (b) Payment of Wages Act, 1936 (C) Payment of Bonus Act, 1965 (d) Equal Remuneration Act, 1976

**3- Coverage:** This Code will be applicable to all the employees. For the people employed in mines, railways, and oil fields, the Central Government will make the wage-related decisions while for all other employments, the State Governments will take the said decisions.

**4- Wages:** The Wages in this Code includes salary, allowance or any other monetary component excluding the bonus and travelling allowance among others.

**5- Minimum Wages:** The minimum wages notified by the Central or States Governments should be more than the floor wages. The skill of the workers' and the difficulty level of the work will be taken into account by the Government before fixing the minimum wages.

These will be revised and reviewed every five years by the government. The employers are prohibited from employing people on less than the minimum wages.

**6- Working Hours:** The Central or States Governments will fix the number of working hours. In case of overtime, the employee is entitled to overtime compensation (at least twice the normal wages).

**7- Payment of Wages:** The employer can fix the wage period as: daily, weekly, fortnightly or monthly. The payment will be made in coins, currency notes, through electronic medium, cheque or by a credit to the bank account.

**8- Deductions:** The employer has the right to deduct wages on the following grounds: fines, absence from duty, accommodation provided by the employer or the advance payment made to the employee.

It is to be noted that the deductions should not be more than 50% of the employee's total wage.

**9- Bonus:** The employees whose wages do not exceed a specific monthly amount are entitled to an annual bonus which will be at least 8.35% of his wages or Rs. 100, whichever is higher. As per the Code, an employee can receive a maximum bonus of 20% of his annual wages.

**10- Gender Discrimination:** The Code prohibits discrimination based on gender in matters associated with wages and recruitment of employees for the same work or work of similar nature.

**11- Advisory Boards:** These will be constituted by the Central and State Governments and will advise the respective governments on several issues including fixation of minimum wages and increasing employment opportunities for women.

The Central Advisory Board will comprise an equal number of employees and employers, five state government representatives and independent persons. The State Advisory Board will comprise of employees, employers and independent persons.

**12- Offences:** The Code specifies penalties for offences committed by an employer in cases where any provision of the Code is contravened or employees are paid less than the minimum wages.

As per the Code, the maximum punishment for the said offence is 3-month imprisonment along with a fine of 1 lakh.

## CHAPTER 6

### UNORGANISED WORKERS SOCIAL SECURITY ACT ,2008

The Unorganized Workers' Social Security Act, 2008 is an exclusive legislation providing social security to unorganized workers in India. The present chapter of the thesis is devoted to complete analysis of the Act. The entire scheme of the Act has been analysed and evaluated in this chapter. The constitution, composition, powers and functions of the National Social Security Board and State Social Security Boards, are discussed in detail.

**6.1. Historical Development and Introduction:** The unorganized workers prior to the enactment of the Unorganized Workers' Social Security Act, 2008 were not in statute books and have not been defined. It is the first time when the unorganized workers in the country are defined by the Unorganized Workers' Social Security Act, which is exclusively enacted for them. Section 2(m) of the Act conveys that if any worker who is covered by any of the Act, mentioned in Schedule II to this Act, is not unorganized worker, whether he is covered by any social security provisions or not. On 15th October 1999 the Indian Government resolved the appointment of the Second National Labour Commission. In 2002 the Second National Commission on Labour submitted its report with the recommendation for an 'umbrella legislation' to cover those workers who are not protected by the existing labour laws. In 2005 the National Advisory Council also submitted a draft bill based on the recommendations of the Second National Labour Commission. This draft Bill which was titled 'The Unorganized Workers' Social Security Bill' was tabled in the Rajya Sabha in September 2007. This draft received the assent of the President of India on 30th December 2008 and became an Act having a title 'The Unorganized Workers' Social Security Act, 2008. The Act primarily aims at providing social security and welfare of unorganized sector workers. The Act also gives a wide definition to unorganized workers. According to the Act unorganized workers include home based worker, self-employed worker, or a wage worker in the unorganized sector and the workers of the organized sector who are not covered by any of the Acts mentioned in Schedule II to this Act." The benefits proposed under the Act are: (a) life and disability cover (b) health and maternity benefits (c) old age protection generally and (d) any other benefit as determined by Central Government. The Act stipulates that state governments may devise appropriate welfare schemes, such as provident funds, employment injury benefits, housing, educational schemes for children, worker skill upgradation, funeral assistance, and old age homes, which

may be fully funded by the central government, shared by the central and state governments, or funded with employee contributions. The Act also contains the provisions for constitution of a National Social Security Board for unorganized workers. Powers have been given to the Board to make recommendations to Central Government for the formulation of, from time-to-time suitable welfare schemes. Section 3 of the Act also empowers the Central Government to formulate and notify, from time to time, suitable welfare schemes for unorganized workers on matters relating to, (a) maternity benefits (b) life and disability cover (c) old age protection and (d) any other benefits as may be determined by the Central Government. The Act says that the schemes included in the schedule I to this Act shall be deemed to be the welfare schemes under sub section (1) of this section. A 'National Social Security Board' and a 'State Social Security Board' will be in charge of putting these plans into action. These boards will be in charge of overseeing the collecting of contributions, the upkeep of Social Security funds, and ensuring that benefits are distributed properly.

## **6.2. Social Security Benefits under the Act**

Section 3 (1) and (3) are to be provided by the Central Government and State Governments to unorganised workers. The Act provides that the Central Government shall formulate and notify from time-to-time suitable welfare schemes for unorganised workers on the matters of life and disability cover, health and maternity benefits, old age protection and on any other matter as may be determined by the Central Government. Welfare of labour is subject matter which is kept in the concurrent list under Indian Constitution. Section 3(1) of the Act makes it mandatory on the part of the Central Government that the Central Government shall formulate and notify from time-to-time suitable welfare schemes for unorganised workers. Section 3(2) of the Act corresponds the meaning that the schemes included in the schedule I to this Act shall be deemed to be welfare schemes under section 3(1).

## **6.3. National Social Security Board:**

### **6.3.1. Objectives and Constitution of the National Social Security Board**

Protection of the rights of the unorganized labour is the prime motive of the Unorganized Workers' Social Security Act. Towards achieving of this goal, the responsibility has been conferred on the National Social Security Board as well as on the State Social Security Boards, constituted under the Act. These boards are under an obligation to enhance the welfare and

social security provisions for unorganised sector workers. Further the objectives of these boards are to monitor the social security schemes and to review the progress of registration of workers under the Act. The Act provides the constitution of National Social Security Board under the chairmanship of Union Minister for Labour & Employment with Member Secretary and nominated members representing Members of Parliament, unorganized workers, employers of unorganized workers, civil society, Central Ministries and State Governments, with provisions for adequate representation to persons belonging to the schedule castes, the schedule tribes, the minorities and women. The functions of the National Board are to recommend the suitable schemes for different sections of unorganized workers and monitor the implementation of schemes and advise the Central Government on matter arising out of the administration of the Act.

The National Social Security Board shall consist of the following members<sup>45</sup>, namely: -

- (a) Union Minister for Labour and Employment-Chairperson, ex officio;
- (b) The Director General (Labour Welfare)-Member-Secretary, ex officio; and
- (c) Thirty-Four members to be nominated by the Central Government, out of whom-
  - (1) Seven representing unorganised sector workers;
  - (2) Seven representing employers of unorganized sector
  - (3) Seven representing eminent persons from civil society;
    - 1) Two representing members from Lok Sabha and one from Rajya Sabha;
    - 2) Five representing Central Government Ministries and Departments concerned; and
    - 3) Five representing State Governments.

### **6.3.2. Tenure of the National Social Security Board and Terms of the office of Members**

According to the provisions of the Act the terms of the National Social Security Board shall be three years<sup>46</sup>. According to these provisions a member, other than ex officio member, shall hold office for a period not exceeding three years from the date of his nomination. Further it

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<sup>45</sup> Section 5 (1), UWSSA, 2008.

<sup>46</sup> Section 5(5), UWSSA 2008



explains that a member nominated from the House of Representatives shall cease to be a member of the board if he ceases to be a member of the House of Parliament by which he was so elected. A member shall be eligible for renomination.

### **6.3.3. Qualification of Members of the National Social Security Board**

The Act lays down qualifications for the members of National Board. The chairperson and other members of the Board must be 'persons of eminence' in the sectors of labour welfare, management, finance, and law, and administration<sup>47</sup>. The term 'eminence' which is used for the qualification of the members is very vague and is not defined in any specific sense. Qualification of the board member plays a significant role in establishing the good labour relations. He must be aware of the applicable legislation, as well as of the labour relations practices.

### **6.3.4. Procedure for Removal / Resignation of the Members of the National Social Security Board**

The rules for removal or resignation of the members of the National Social Security Board are provided under the Unorganized Worker Social Security Rules, 2009 which are framed to supplement the Act. According to these rules a member of the board not being an ex officio member may resign his office by a letter in writing addressed to the chair person<sup>48</sup>. The seat of such a member shall fall vacant from the date on which his resignation is accepted or on the expiry of the thirty days from the date of receipt of intimation of resignation whichever is earlier. The power to accept the resignation of a member shall vest in the chair person who on accepting the resignation shall report to the board at its next meeting.

### **6.3.5. Meetings of the National Social Security Board**

The Act provides provisions governing the National Social Security Board's meetings. "The National Social Security Board shall convene at least thrice a year, at such time and location as may be prescribed, and shall observe such rules of procedure relating to the conduct of business at its meeting as may be prescribed," according to these laws. In this regard the rules framed under the Act states that the board shall meet at such places and at such time, as may

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<sup>47</sup> Section 5 (3), UWSSA, 2008.

<sup>48</sup> Section 4(1), USSWR, 2009.

be decided by the chairperson and shall meet at least once in four months<sup>49</sup>. The chairperson shall preside over every meeting of the board. Ordinarily before conveying the meeting, two weeks' notice shall be given to the members of the Board of a proposed meeting. The chairperson has a power to call a special meeting of the board in case of urgency after informing the members in advance about the subject matter of discussion and reason of urgency.

### **6.3.6. Quorum for Meeting for the Transaction of Business**

The Unorganized Workers Social Security Rules provide that no business shall be transacted at any meeting of the board unless at least six members are present in that meeting which shall include at least one Member of Parliament<sup>50</sup>. Provided that if at a meeting less than six members are present, the chairperson may adjourn the meeting to another date informing the members present and giving notice to other members that he proposes to dispose of the business at adjourned meeting. The Central Government has a power to debar any member other than ex-officio members, from taking part in the meeting of the board if he absents himself from three consecutive meeting of the Board without information to Chairperson in writing and consent of the Chairperson. The important concern is that the quorum provided for meeting is very minimal and there should be at least thirteen members for quorum.

### **6.3.7. Allowances of the Members of the National Social Security Board**

The Act deals with the provision of the allowances to be paid to member for attending the meeting of the national board. The travelling allowance to an official member of the board shall be govern by the rules applicable to him for journey performed by him on official duty and shall be paid by the authority paying his salary<sup>51</sup>.

### **6.3.8. Disposal of the Business by National Social Security Board**

The business put up before the Board shall be disposed of with majority. Rules framed under the Act states that 'every matter which the Board is requires to take into consideration shall be considered at meeting of the Board or if the Chairperson so directs, by sending the necessary

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<sup>49</sup> Section 9(1), UWSSR, 2009

<sup>50</sup> Section 11(1), USSWR, 2009

<sup>51</sup> Section 7(1), UWSSR, 2009.

paper to every member for opinion, and the matter shall be disposed of in accordance with the decision of the majority’.

### **6.3.9. Functions of the National Social Security Board**

The Act empowers<sup>52</sup> the National Board to perform the following functions,

- (i) recommend to the Central Government suitable schemes for different sections of unorganized workers,
- (ii) advise the Central Government on such matters arising out of the administration of this Act as may be referred to it,
- (iii) monitor such social welfare schemes for unorganized workers as are administered by the Central Government,
- (iv) review the progress of registration and issue of identity cards to the unorganized workers,
- (v) review the record keeping functions performed at the State level,
- (vi) review the expenditure from the funds under various schemes

## **6.4. State Social Security Board**

### **6.4.1. Objective and Constitution of the State Social Security Board**

Labour welfare is a subject matter of concurrent list under Indian Constitution. The UWSSA is a Central legislation and by such way it casts a sole obligation on Central Government. But the Central Government has thrown more than half responsibility on State Government. The provisions under section 3(4) of the Act state that the State Governments may formulate and notify suitable welfare schemes for unorganized workers on the matter of provident fund, employment injury benefit, housing, educational schemes for children, skill upgradation of workers, funeral assistance and old age homes. This Act also empowers the State Governments to constitute ‘State Social Security Board’. The Act states that the State Social Security Board shall consist of the following members, namely: -

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<sup>52</sup> Section 5(8), USSWA, 2008.

(a) Minister of Labour and Employment of the concerned State-Chairperson, ex officio;

(b) The Principal Secretary or Secretary (Labour)-Member Secretary, ex officio; and

(c) Twenty-eight members to be nominated by the State Government, out of whom- (i) Seven representing the unorganized workers;

(ii) Seven representing employers of unorganized workers;

(iii) Two representing members of Legislative Assembly of the concerned State;

(iv) Five representing eminent persons from civil society; and

(v) Seven representing State Government Departments concerned.

Further the Act lays down the qualifications for members of the State Board and states that ‘the Chairperson and other Members of the Board shall be from amongst persons of eminence in the fields of labour welfare, management, finance, law and administration.

#### **6.4.2. Tenure, Meeting and allowances of the members of the State Social Security Board**

According to the provisions of the Act the term of State Social Security Board shall be of three years, and the State Social Security Board shall meet at least once in a quarter at such time and place and shall observe such rules of procedure relating to the transaction of business at its meetings, as may be prescribed. The members may receive such allowances as may be prescribed for attending the meetings of the State Social Security Board.

#### **6.4.3. Functions of the State Social Security Board**

The State Board shall perform the following functions, namely: -

(a) recommend the State Government in formulating suitable schemes for different sections of the unorganized sector workers;

(b) advise the State Government on such matters arising out of the administration of this Act as may be referred to it;

- (c) monitor such social welfare schemes for unorganized workers as are administered by the State Government;
- (d) review the record keeping functions performed at the District level;
- (e) review the progress of registration and issue of cards to unorganized sector workers;
- (f) review the expenditure from the funds under various schemes; and

## **6.5. Registration of Workers under the Act**

The efficacy of delivery of any welfare scheme is dependent on the identification of genuine workers or beneficiaries. So, it is essential and important to find out the genuine beneficiaries and to register them. The Act imposes a legal obligation on the government concerned to register the unorganized workers and issue identity cards for all the categories of workers covered under the Act. Statistical reports reveal that many genuine targeted beneficiaries are not able to avail of the benefits to which they are entitled and at the same time many non-entitled individuals are availing of welfare benefits through dubious means. So, such type of situation can be avoided by making proper registration of workers.

### **6.5.1. Eligibility and Procedure for Registration of Workers under the Act**

Every unorganized worker shall be eligible for registration subject to the fulfilment of the following conditions, namely: - (a) He or she shall have completed fourteen years of age; and (b) A self-declaration by him or her confirming that he or she is an unorganised worker<sup>53</sup>. The Act defines the registered workers as ‘registered worker’ means an unorganized worker registered under sub section (3) of section 10. For the registration, every eligible unorganized worker shall make an application in the prescribed form to the District Administration. Furthermore, the Act mandates that every unorganised worker be registered with the District Administration and provided an identity card, which must be a smart card with a unique identification number and be portable. The Act delegated the record-keeping function to the District Administration. It states that the record keeping functions for the purpose of this Act shall be performed by the District Administration.

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<sup>53</sup> Section 10 (1), UWSSA, 2008

### **6.5.2. Benefits or Advantages of Registration under the Act**

The Act provides that if any unorganized worker wants to take benefit of any scheme under the Act, he must be registered him /herself under the provisions of the Act. The provisions of the Act explain that, if a scheme requires a registered unorganized worker to make a contribution, he or she shall be eligible for social security benefits under the scheme only upon payment of such contribution<sup>54</sup>. The Act also states that when a plan needs a contribution from the Central or State Government, the Central or State Government, as the case may be, must make the contribution on a regular basis in accordance with the scheme.

### **6.6. Establishment of Worker's Facilitation Centres**

The Act provides that the State Government may set up such Workers' Facilitation Centres<sup>55</sup> as may be considered necessary from time to time, to perform the following functions, namely:

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(a) disseminate information on available social security schemes for the unorganized workers; (b) facilitate the filling, processing and forwarding of application forms for registration of unorganized workers; (c) assist unorganized worker to obtain registration from the District Administration (d) facilitate the enrolment of the registered unorganized workers in social security schemes. In addition to these functions the establishment of workers' facilitation centre may be very helpful in spread awareness about the welfare schemes for unorganized workers.

### **6.7. Social Security Schemes under the Act**

The Act empowers the Central Government to formulate and notify, from time to time, suitable welfare schemes for unorganized workers on matters relating to, (a) health and maternity benefits (b) life and disability cover (c) old age protection and (d) any other benefits as may be determined by the Central Government. The Act says that the schemes included in the schedule I to this Act shall be deemed to be the welfare schemes under sub section (1) of this section. The schemes included in the Schedule I of the Act<sup>56</sup> are as under: 1. Indira Gandhi National Old Age Pension Scheme. 2. National Family Benefit Scheme. 3. Janani Surksha Yojana. 4. Handloom Weavers' Comprehensive Welfare Scheme 5. Handicraft Artisans' Comprehensive

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<sup>54</sup> Section (10) (4), UWSSA, 2008.

<sup>55</sup> Section 9, UWSSA, 2008

<sup>56</sup> Schedule I, UWSSA, 2008

Welfare Scheme. 6. Pension to Master craft persons. 7. National Schemes for Welfare of Fishermen and Training and Extension. 8. Jan Shree Bima Yojana. 9. Aam Admi Bima Yojana. 10. Rastriya Swasthya Bima Yojana.

### **1. Indira Gandhi National Old Age Pension Scheme**

This scheme is run by Ministry of Rural Development. It was renamed the Indira Gandhi National Old Age Pension Scheme in November 2007, and its scope was expanded with a change of its eligibility requirements. It is a non-contributory old age pension plan for Indians aged 60 and up who live in poverty. It is a centrally sponsored scheme, but it was transferred to the State Plan in 2002-2003, and the States are providing flexibility in the choice and implementation of this scheme. The amount of pension, which was 75 rupees per beneficiary until now, has been raised to 200 rupees per beneficiary, per month. So, this scheme aims at the providing a monthly pension for livelihood. The mode of distribution of the pension amount is through bank/ Post office account.

### **2. National Family Benefit Scheme**

This scheme was introduced on 15th August 1995 by the Government of India as a component of National Social Assistance Programme. The philosophy behind the launching of this scheme is to achieve the goals mentioned in Article 41 of the Indian Constitution which states that: “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 objective of the scheme is to provide a lump sum amount of money to the house hold that lives under the below the poverty line, in the event of the death of primary bread winner, irrespective of the causes of death. A woman in the family, who is a home maker, is also considered as a “bread-winner” for this purpose. The death of such a bread-winner should have occurred whilst he/she is more than 18 years of age and less than 60 years of age. The payment is to be made, to such surviving members of the house hold of the deceased, who after local inquiry determined to be the head of house hold, for the purpose of this scheme. At the time of beginning this scheme was centrally sponsored but now it has been transferred to State Plan, 2002-03. This scheme is implemented by the Ministry of Rural Development and the funds are disbursed by the District Planning Boards.

### **3. Janani Surkasha Yojana**

It was introduced on 12th April 2005 under the National Rural Health Mission. Before it, this scheme was known as the National Maternity Benefit Scheme. The scheme's goal is to provide a safe environment for mothers. Its goal is to give benefits to pregnant women from low-income families and to promote ante-natal care, institutional deliveries, and post-partum/post-natal care, which is crucial not only for the mother's health but also for the health and survival of the child. The vision behind the scheme is to reduce overall Maternal Mortality Rate (MMR) and Infant Mortality Rate (IMR) and to increase for institutional deliveries in below poverty line families<sup>57</sup>. It is totally centrally sponsored scheme. All the pregnant women belonging to the below poverty line house hold and of the age 19 years or above are eligible under this scheme. The benefits Guidelines for implementation of Janani Surkasha Yojana (Ministry of Health and Family Welfare Government of India). of the scheme are limited to the first two live births. Under this scheme the cash is distributed to the poor pregnant women for institutional delivery.

### **4. Handloom Weavers' Comprehensive Welfare Scheme:**

Since 2005-06, the Government of India was implementing two separate schemes namely the 'Health Insurance Scheme' for providing health care facilities to the handloom weavers in the country and the 'Mahatma Gandhi Bunker Bima Yojana' for providing life insurance cover to handloom weavers. During the 11th plan, both the schemes Government of India, Guidelines for implementation of Janani Surkasha Yojana (Ministry of Health and Family Welfare) were amalgamated into one scheme<sup>58</sup>, namely Handloom Weavers' Comprehensive Welfare Scheme and presently implemented as under two components (i) Health Insurance Scheme (ii) Mahatma Gandhi Bunker Bima Yojana. (i) Health Insurance Scheme the Government of India was implementing a Health Package Scheme since the year 1992-93, as welfare measure for the benefit of the handloom weavers. The basic objective of the "Mahatma Gandhi Bunker Bima Yojana" is to provide enhanced insurance cover to the handloom weavers in the case of natural as well as accidental death and in cases of total or partial disability. It covers weavers within the age group of 18 to 59 years. Under this scheme the sum assured was fifty thousand rupees in case of natural death, and eighty thousand rupees in case of accidental death which has now been increased sixty thousand rupees and one lakh and fifty thousand rupees

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<sup>57</sup> Guidelines for implementation of Janani Surkasha Yojana (Ministry of Health and Family Welfare Government of India).

<sup>58</sup>Government of India, Annual Report, para. 10.3 (Ministry of Textiles, 2014- 15)



respectively. In case of total disability or loss of both eyes or limbs or one eye and one limb amount to be paid is one lakh and fifty thousand rupees but if there is a loss of one eye or one limb this amount will be seventy thousand rupees. It implemented through life Insurance Corporation of India.

#### **5. Handicraft Artisans Comprehensive Welfare Scheme:**

The Constituents of the abovementioned scheme are, (a) Rajiv Gandhi Shilpi Swasthya Bima Yojana (b) Bima Yojana for Handicraft Artisans; (a) Rajiv Gandhi Shilpi Swasthya Bima Yojana It was initially launched on a pilot basis in March 2007 to cover fifty thousand artisans under the scheme. This scheme aims at enhancing the financial affordability of the artisan's community to avail the best of health care facility in the country. All craft persons will be eligible to be covered under the Scheme. It covers not only the artisan's but also their family members, it provides for cashless facility, a total medical cover of thirty thousand rupees for IPD and seven thousand and five hundred rupees for OPD. (b) Bima Yojana for handicraft artisans or Aam Adami Bima Yojana: the objective of Aam Admi Bima Yojana for handicraft artisans is to provide life insurance protection to the handicraft artisans. According to the scheme all craft persons will be eligible to be covered under the 'Aam Admi Bima Yojana for Handicrafts artisans' subject to the conditions laid down by the LIC from time to time. The present age for benefits is available to 18 to 59 years of age of beneficiary.

#### **6. Jan Shree Bima Yojana:**

Jan Shree Bima Yojana was started by replacing the Social Security Group Insurance Scheme and Rural Group Life Insurance Scheme. This scheme came into being on 10th August 2002. The objective of this scheme was to provide life insurance cover to rural and urban poor who lived below the poverty line or on the marginal line, provided that these workers must be belonged to at least one of the 45 occupations/ occupational groups. These occupations are; Kotwal, Cobblers, Carpenters, Rural Poor, Urban Poor, Agriculturist, Salt Growers, forest workers, Transport drivers, Plantation workers, Power loom Workers, Hamels, Fishermen, Lady tailors, Beedi Workers, Safai Karamcharis, Handicraft artisans, Handloom weavers, Coconut Processors, Construction Workers, Physically handicapped self-employed, Printing, Textiles, Sericulture, Wood artisans, Wax products, Paper products, Hilly area women, Toys manufacturer, Brick-kiln workers, Tendu leaf collectors, Food stuffs as khan sari/ sugar, Fire crackers workers, Primary Milk Producers, Rubber & Coal products. Benefit under this scheme

was available in case of natural death, thirty thousand rupees, on accidental death, seventy-five thousand rupees, on total permanent disability due to accident seventy-five thousand rupees and on partial permanent disability due to accident is thirty-seven thousand and five hundred rupees. This scheme was implanted through Life Insurance Corporation of India.

### **7. Aam Admi Bima Yojana:**

On October 2, 2007, the Aam Admi Bima Yojana was established with the goal of providing death and disability insurance to rural landless households. It covers the head of the family of a family with one earning member who lives in a rural landless home. The benefits under this scheme are limited to thirty thousand rupees in case of natural death, and seven thousand and five hundred rupees for death or disability due to accident and thirty-seven thousand and five hundred rupees, for loss of one eye or limb in an accidental. But in 2013 the Government of India has been merged the Jan Shree Bima yojana into Aam Admi Bima Yojana with effect from 1st Jan. 2013, because both schemes have the same characteristics, similar structure of benefits, premium and target group and both are administered by Life Insurance Corporation of India.

### **8. Rashtriya Swasthya Bima Yojana:**

It is the most important and popular social security scheme after Aam Admi Bima Yojana. It was launched by Ministry of Labour and Employment, Government of India on 1st October 2007. It has emerged as a major National Health Insurance Initiative containing the vulnerability of poor house hold during medical emergencies. It provides support to the BPL families in case of hospitalization. The benefits are limited to five members and insurance cover up to the thirty thousand rupees, per family, per annum. This scheme entails the beneficiary receiving a smart card in order to facilitate cashless transactions. It also assures the portability of health benefits because the system allows low-income families to choose their own hospitals by allowing them to use their health benefits at any empanelled hospital across the country. It was implemented by the State Governments through insurance companies and premium is shared by the Central and State in the ratio of 75:25.

### **6.8. Miscellaneous powers of the Centre and State Government under the Act**

The Act deals with the power of Central Government to give directions to (i) the National Social Security Board; or (ii) the State Social Security Board of that State, in respect of matters relating to the implementations of the provisions of this Act<sup>59</sup>. This Act empowers the Central Government to make rules on any of the matters relating to the implementation of the Act. According to the Act 'The Central Government may, by notification, make rules to carry out the provisions of this Act. This Act also gives power to make rules to State Governments. The Act also confers power on Central Government to remove difficulties. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty, provided that no such order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

Moving with the International Labour Organization' approach and Constitutional commitment towards labour welfare, the Indian Parliament enacted a legislation named "The Unorganized Workers Social Security Act 2008". This Act came into force on 30th December 2008 with the sole aim of providing social security for unorganized workers. This is the first legislation of its kind that deals with the unorganized workers in country. This legislation is seeing by the Government as high horse. But the unorganized workers are not seeing any rays of hopes in the Act due to the defective and ambiguous provisions of the Act. The Act empowers the Central Government and State Governments to formulate and notify, from time to time, suitable welfare schemes for unorganized workers on matters relating to social security on the recommendations and advise of the National Social Security Board and State Social Security Boards Respectively. Thus, the Act limits the powers of the National Social Security Board and State Social Security Boards as they are performing only advisory role under the Act. This Act contains ten schemes in schedule I, a careful study of each scheme depicts that these schemes are not providing a complete range of social security as these are only insurance and pension schemes. These schemes can be enjoyed by workers either on old age or on accident, or on the accidental death of the bread earners of the workers family. The amount payable to the beneficiary under these schemes is very meagre. Most of the schemes are applicable only on BPL families. The current benefits under these schemes are not delivered through a Single-Window Arrangement.

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<sup>59</sup> Section 11, UWSSA, 2008

## **CONCLUSION AND SUGGESTIONS:**

### **Conclusion:**

In India's economy, unorganised or informal labourers play a critical role. Informal workers make for more than 90% of the workforce and almost half of the GDP. Informal economic activities are home to a large number of society's socially and economically disadvantaged members. In terms of income security, employment security, illness benefits, invalidity benefits' survival, and other contingencies benefits, the unorganised sector is regarded as the unprotected sector. As a result, workers in this industry are denied any forms of social security. In India, however, the government's principal focus has been to increase social security for unorganised workers. The Indian Constitution also requires the government to defend the rights of unorganised workers who are particularly vulnerable, as well as to create an environment in which they can live and work in dignity. The government has taken a number of initiatives in this direction, including establishing social insurance plans and job-training programmes for unorganised workers. The Government also recognized the need to enhance the welfare and well-being of workers. For the achievement of this goal the Government set up the National Commissions on Labour in 1969 and 2002 respectively and National Commission for Enterprises in the Unorganized Sector (NCEUS 2006), to review the social security system available for labour in the informal sector and to make recommendations for expanding their coverage. All the Commissions made recommendations for umbrella legislation, with a view to provide social security for unorganized workers. Thereafter the Parliament enacted legislation The Unorganized Workers' Social Security Act, 2008. This is the first legislation of its kind, which is exclusively designed and drafted for the social security of unorganized workers. This Act has raised very high hopes in the mind of unorganized workers. But these hopes bitterly shattered as this Act, due to its defective drafting could not fulfil the objectives of social security. The sole objective of the Act is to provide social security to unorganised workers but the term 'social security' remained undefined in any substantive and explicit sense in the whole body of the Act. The Act emphasizes only on the schemes of welfare. Thus, instead of using the one term 'Social Security' there are three expressions namely welfare schemes, labour welfare and social welfare have been used in the Act. Therefore, on this point, it is suggested that the Government should define primarily the concept of social security in a

specific sense rather than in generic sense so that any confusion about the definition of social security can be set at rest. The provisions under chapter II are also ambiguous on the objectives of the Act. The provisions under Section 3(1), 3(4) are suffering from defects as the legislature bifurcated the concept of social security between Central Government and State Governments, and thus makes it the toy in the hand of central or state instruments. As the existing provisions of the Act reflect that the social security of the unorganized and poor workers has been handed over in multiple hands. This causes a delay in its formulation & enforcement of social security plans to the unorganized workers. Therefore, the social security to unorganized workers must be provided through a unified command, it means that expressly Centre Government only should have a right to frame the law on the matter of social security and there should be a single window architect to design social security schemes. The role of State Government should be limited only for the implementation of schemes formulated by Centre Government in true letter and spirit and redressal of grievances of the aggrieved. National Social Security Board and State Social Security Boards under Chapter III and IV of the Act also have many lacunas, as they have no authority to formulate any schemes for unorganized workers. Section 5(8) and Section 6(8) of the Act confine their limits to an advisory and monitoring role respectively. Apart from this, the Act is absolutely lacking of total lack of legislative will or intent. The concept of social security should have been the integral part of the law made by the Parliament, instead of leaving it on the whims of the executive. Further section 8 of the Act imposed the obligation of record keeping function on District Administration. But the expression 'District Administration' has not been defined in Act. There is no enforcement and redressal mechanism available under the provisions of the Act. This Act contains ten schemes in schedule I, after a careful study and analyses of each scheme a conclusion can be drawn that these schemes are not providing a complete range of social security; these are only insurance and pension schemes. These schemes can be enjoyed by workers either on old age or on accident, or on the accidental death of the bread earners of the workers family. The amount payable to the beneficiary under these schemes is also very meagre. No scheme provides guarantee for full employment. Coverage of beneficiary is also very low under these schemes. As per Government Statistic only six percent unorganized workers are covered under these schemes. Most of the schemes are available only for below poverty line families and don't cover the entire section of unorganized workers. In nutshell it can be said that the present Act for social security of the unorganized worker is not a perfect legislation and it is a bundle of scanty and ambiguous provisions. It is suggested that the Parliament either define the social security on the line of International Labour Organizations' definition.

## **Suggestions:**

In view of the above discussions the following suggestions are being submitted for the betterment of the unorganized workers in terms of their social security.

1. Providing a minimal social safety net for all workers, regardless of pay, size of business, or place of birth.
2. Existing labour regulations relating to worker social security urgently require a robust framework for enforcing and monitoring company compliance.
3. Instead of the current scheme-specific databases, a common database of informal labourers should be created.
4. Streamlining registration process of informal workers and creating awareness about entitlements
5. The Act's long title includes the term "social security," but the term is not defined anywhere in the Act. As a result, the phrase "social security" must first be defined in both a narrow and broad sense. The ILO Conventions on Social Security, which acknowledge a wide range of social security, could be used for this purpose.
6. The definition clause of the Act needs to be amended so that the most exploited/vulnerable unorganised sex workers are included in the definition of unorganised worker.
7. All components of social security mentioned in Section 3(1) and (4) should be brought under the 'one umbrella', means all types of social security schemes or welfare schemes should be framed by the National Social Security Board and there should be a universal application of these schemes.
8. State Governments role on the matter of social security should be limited to implementation & execution of the schemes only rather than the framing of schemes.
9. There should be a separate 'National Social Security Budget' for the social security of unorganized workers.

10. The National Social Security Board must be entrusted with the power to formulate and notify the social security schemes under 'single window architecture' policy and State Social Security Boards must be entrusted with the power to implement the schemes formulated by the National Social Security Board.

11. National Social Security Board and State Social Security Boards must be re-constituted by giving at least fifty percent representations to unorganized workers.

12. An obligation regarding establishment of workers facilitation centres under Section 9 of the Act must be made mandatory on the part of State.

13. Workers Facilitation Centres should be set up at each Tehsil or Block levels.

14. Workers Facilitation Centres should be entrusted with the function of the skill development of unorganized workers in addition to the functions already provided for disseminate information on social security, processing of application form for registration of unorganized workers and enrolment of the registered unorganized workers in social security schemes.

15. The enforcement and redressal mechanism for the proper implementation of the provisions of the Act must be provided under the Act, which is presently absent from the Act. 16. The registration of each and every unorganized worker must be mandatory under the Act. For this an obligation can, be imposed on the State Social Security Boards.

17. Provisions regarding two components of social security namely employment guarantee and income guarantee should be laid down in the Act.

18. Except for self-employed individuals, all workers in the unorganised sector should be engaged or hired through a registered contract so that employee-employer relations can be made visible. Mandatory elements should be included in the Act in this regard. It will prevent unorganised labour from being exploited.

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