



RIGHTS OF WOMEN WORKING IN UNORGANIZED SECTOR IN INDIA: A HUMAN RIGHTS PERSPECTIVE

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ABSTRACT

Women's enablement is vital to the advancement of the country. No country can develop without the empowerment of women. Recent studies have shown that large numbers of the women workforce are in the unorganized sector the unorganized sector has become an integral part of our Indian economy.¹ Human rights are the elementary rights and liberty that belong to every person. They are grounded on important principal like the dignity of life, impartiality, and fairness.² The right to a safe and dignified life is envisaged in Article 21 of our Constitution that cannot be alienated from the human being. despite their considerable participatory role, the nature of work, status at work, working and living conditions, and the role of placement agencies, have not been interpreted in a way that gains support for the promotion and protection of their labour rights. women workers share an underprivileged position due to poverty, illiteracy, poor skill, low earnings and low productivity. The government of India is working to protect and promote the rights of women. These laws need to be executed strictly to curb rising human rights abuses. The Unorganized Workers Social Security Act, of 2008 did not meet the prerequisite of women workers in a strict sense and constitutional provisions, provisions of Labour Laws, and judicial assertions relating to working women in the unorganized sector are not adequate. The Governance arrangements for the execution of maternity prerogatives, job security, protection against exploitation and prejudiced attitudes, are not acceptable to promote the quality of work by confirming a decent standard of right to life for women workers.

Keywords: *Women Workers, Human Rights, Unorganized Workers, Legislative Provisions, Indian Economy.*

INTRODUCTION

The relation between a nation's prosperity and women's condition can be understood by the famous quote given by *Pandit Jawaharlal Nehru* " you can tell the condition of a country by observing the status of its women."³ Role of the women in India mostly is household and limited to domestic issues. Female workers form the largest portion of India's unorganized workforce. The majority of women work in unorganized sectors for low wages due to having low levels of skills, illiteracy and ignorance lead to a high level of exploitation and the social and economic profile of female workers is affected by the nature of the industrial sector where they work.

Meaning of Human Rights

Human rights contain the right to life, liberty from slavery and torture, freedom of belief and expression, and many more the right to work and education. These human rights are inherent to all human beings, regardless of race, nationality, sex, religion, language, or any other position.

Who is an unorganized worker?

As per the definition provided under The Unorganized Workers' Social Security Act, 2008, the term unorganized worker means to include a self-employed worker, home-based worker or a daily wage worker in the unorganized sector and includes a worker in the organized sector who is not enclosed by any of the Acts include in Schedule-II of Act⁴.

The economy is highly dependent on this sector for its development and growth. The unorganized sector forms a huge portion of the workforce in India. But it has been seen that due to the unregulated nature of this sector, there is a lack of an effective legal framework which makes the workers susceptible to exploitation. In this sector, more than 90 percent of the workforce is comprised of women. Even though the number of women employed in this sector is large, they are not included in the official statistics as their work is considered to fall within the category of disguised work or unskilled work. This is a major cause for such women being left out of benefits that are awarded to other workers.

The Constitution of India is one of the most effective supreme laws of the land, which guarantees fundamental rights like equal opportunities, the dignity of life, and equal rights for men and women in democratic societies. In most cases, still, women in our country are for all time considered as inferior status compare to men almost all over the place. The role of women in and outside their homes has become a significant feature of the social and economic life of the nation. In India unorganized sectors always play a crucial role in terms of providing employment and equal opportunities to a large part of the workforce and the involvement of women in these sectors is more than men. That means in all over India a large number of women from rural areas work in unorganized sectors. They work in inhuman conditions in cities

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³ Manju, "Women in unorganized sector – Problem and issues in India" *International Journal of Applied* 830 (2017).

⁴ Sahana Priya Satish, "Women in unorganized in the sector -does the law protect them" *IRALR* (2020).

as their living standards are extremely poor. It is a recognized fact that there is still no society in India in which women in unorganized sectors enjoyed equal opportunities or equal rights as men.

OBJECTIVES OF THE PRESENT STUDY

- To study the historical perspective of participation of women in the unorganized sector.
- To identify the human rights issues faced by women in unorganized workers.
- To examine government initiatives and policies for unorganized women workers in India.
- To study the constitutional and legislative safeguard provisions regarding women working in India.
- To examine the issues of unorganized women workers relating to the physical conditions of work, promotion of livelihoods and issues equal work opportunities, construction workers and the need for immediate attention to extend the benefits of the social security schemes.
- To study the role of the Indian judiciary in protecting the rights of working women.

SIGNIFICANCE OF THE STUDY

The study of this research topic is significant because, in the Indian economy, the majority of the labour force is concentrated in the unorganized sector market activities. The unorganized sector is an economic activity in which governmental interference is minimum and unprotected by any labour laws. The workers falling under the various categories of the unorganized sector have been deprived of their labour rights that subsist in numerous cases of abuse and exploitation they suffer, thus denying them a decent standard of living. The significance of the study is stressed because, despite their substantial participatory role, the nature of work, status at work, working and living conditions, and the role of placement agencies, have not been interpreted in a way that gains support for the promotion and protection of their labour rights. In the overall total employment, women share an underprivileged position due to poverty, illiteracy, poor skill, low earnings and low productivity. The reasons, as stated above, are factors that push the woman workers into this unorganized nature of employment. Therefore, it is essential to identify the rights that are generally available to the unorganized sector women workers. Intends to identify and explore the strategies followed for bringing evolutionary changes in adopting the rights to them and an attempt to minimize the violation of their worker rights and thus upholding their rights and decent work status.

SCOPE OF THE PRESENT STUDY

The scope of the present research proposal shall be limited to the problems faced by women workers in the workplace like sexual harassment, low wages, poor working conditions, social security, etc. The main aspect of the study shall be the identification of the unorganized sector and the legislative action taken on the protection of the rights of the working women in it. The right to a safe and dignified life in our Constitution cannot be alienated from the human being. Therefore, efforts will be made to analyze the various labour laws in light of the rights of working women. Lastly, the judicial trend and efforts made by the judiciary for the protection of the Rights of Women Workers will be observed and analyzed.

WOMEN IN THE UNORGANIZED SECTOR AND THEIR ISSUES INVOLVED

The term unorganized sector was first used by Hart in 1971 who described the unorganized sector as that part of the urban labour force, which falls outside the organized labour market. In the unorganized sector, work situations are not an official record and working conditions are not protected by law. The problems of female workers in the unorganized sector are not properly known. It has been pointed out by Hart that one of the major problems is that working conditions are worst in the unorganized sector⁵. Due to population growth and urban resettlement, the large labour force was growing at a faster rate than the availability of jobs in the organized sector. The focus of development policies was gradually shifting from pure economics to growth with equity and the eradication of poverty. Interest was made in sectors outside the organized economy that was providing a living to a huge section of the poor. Hence, the idea of the unorganized sector was born.

EXPANSION OF THE UNORGANIZED SECTOR IN INDIA

The unorganized sector is a significant element of the Indian workforce. The unorganized sector workforce has evolved and grown to a higher number in developing countries after World War II. The impact of World War II on most of the developing nations was that the colonies gained independence during the 1950 and later wanted to concentrate on development to attain a welfare State and as a result, there was large growth of the unorganized sector economy. Due to industrialization, there is a large growth of the unorganized sector along with the organized sector economy. The absence of an official organization and ineffective State control over a particular economic activity has resulted in the evolution of the unorganized sector in India. The low-paid and the low-skilled, weaker sections the society dominate the unorganized sector workforces. The majority of the workforce in India is concentrated in what we generally refer to as an unorganized or organized sector because of the evils of the capitalist economy. From various studies, it has been observed that women workers are primarily concentrated in the unorganized sector employment for reasons of poverty, ultimately to gain financial aid to secure their dependents or family members. The unorganized sector comprises both agricultural and non-agricultural activities that have been spread over both rural and urban areas. The employment opportunity for workers especially women workers is declining. The workforce population that is growing at a difficult rate finds it challenging to enter the formal sector for reasons that the said sector is knowledgeable with specific criteria such as educational qualification, technical expertise, skill, and knowledge of high-end technology, and training.

HUMAN RIGHTS ISSUES FACED BY WOMAN WORKERS IN THE UNORGANIZED SECTOR

⁵ Manju, "Women in unorganized sector – Problem and issues in India" *International Journal of Applied* 830 (2017).

- There is no job security for women workers in the unorganized sector.
- They are not getting proper training in the unorganized sector.
- Women belonging to lower castes and communities face more disparity in social terms.
- Women being sexually harassed and assaulted in many workplaces is the main problem of female workers in the unorganized sector who face mental and physical harassment and are not aware of their rights.
- In the unorganized sector, women are exempted from maternity benefits and childcare facilities.
- Workers frequently face discrimination due to gender inequality.
- Women workers do not have the benefit of minimum wage benefit like the organized sector.
- Insufficient Labour law in unorganized workers and absence of social security.
- Women Working in the unorganized sector face vulnerable diseases because of unhygienic working conditions very poor and long hours working conditions.
- They are devoid of raising the right to their voice and can not liberty to take financial decisions in their own family.
- Illiteracy is a major problem because of poverty⁶.

PROTECTION FOR WOMEN UNDER THE CONSTITUTION OF INDIA

Constitution covers numerous safeguards to defend the rights of women employed in the unorganized sector. In fulfillment of this goal, the constitution covers several provisions of fundamental rights and the duty of the state to follow the Directive Principles of State Policy. The word 'Socialist' was added to the Indian constitution by the 42nd Amendment Act 1976. By 'Socialist' we meant liberty from all forms of economic, social, and political. Some of them are as follows:⁷

- Article 14 – Right to equality.
- Article 15 – Right against discrimination.
- Article 21 – Right to life and liberty.
- Article 19 – Liberty of movement, unions, assembly, and occupation.
- Article 23 – Protection from forced labour.
- Article 41 – Right to work.
- Article 39 – Adequate means of livelihood.
- Article 39 – Equal wages.
- Article 43 – All workers a living wage standard of life.
- Article 43A – Workers' participation in management

Beyond these constitutional safeguards that can be employed by unorganized workers to protect themselves, our judiciary has also been proactive in protecting their rights.

In the case of ***Bandhua Mukti Morcha v. Union of India 1984***, This case dealt with informal bonded labour under a debt bond system. Supreme court held that the term right to life article 21 does not mean mere animal existence it includes protection of the health and strength of workers, just and humane conditions of work, protection of children against abuse, and educational facilities.

State of Madhya Pradesh v. Pramod Bhartiya 1992, The issue of unequal pay was emphasized in the case. It was practical that ours is a socialist state and we must protect the disadvantaged or the weaker sections of society The court held that Article 14 is the right to equal pay for equal work irrespective of the technical details or designation of the workers.

LEGISLATIVE SAFEGUARD FOR WOMEN IN INDIA

Various legislations have been put into place for the rights of women working in the unorganized sector. These provisions aim to protect the rights of women workers as well as prevent their exploitation.

Prevention and Redressal Act, 2013 Sexual Harassment of Women at Workplace.

In the case of *Vishakha and Others Vs. State of Rajasthan and Others*⁸. Guidelines laid down by the Hon'ble Supreme Court India finally enacted its law on the prevention of sexual harassment against female employees in the workplace. Sexual harassment is at work place considered a violation of the basic fundamental right of a woman to equality as certain under Articles 14 and 15 of the Constitution of India and the right to life with dignity under Article 21 of the Constitution.

Crimes against Women under the Indian Penal Code, 1860 IPC

The Indian Penal Code, 1860, lays down the provisions to penalize the culprit for heinous offenses against women. Various provisions under the Indian penal code 1860 specifically deal with such crimes. Word, gesture or act intended to insult the modesty of a woman section 509, Outraging the modesty of women section 354, Attempt to commit rape section 376/511, Sexual harassment section 354A, Assault on women with intent to disrobe a woman section 354-B, Stalking section 354-D.

The Unorganized Workers Social Security Act, 2008

As per the provisions, provided under the Unorganized Sector Worker's Social Security Act, 2008, an Unorganized Worker means a home-based worker, a self-employed worker, or a wage worker in the unorganized sector

⁶ S.Monisha, "Women in unorganized sector – A conceptual study" Indian journal Applied Research 831(2016)

⁷ Pratik Banerjee, "Women in the informal sector" Legal service India (2005).

⁸ (1997) 6 SCC 241

etc. The Act provides for the formulation of Social Security schemes for social security and the welfare of workers in the unorganized sector.

The Factories Act, 1948.

The Factories Act aims at protecting workers employed in factories from unfair mistreatment by their workers. To safeguard the interest of workers and protect them from exploitation, the Act prescribes certain standards for the safety, welfare and working hours of workers, apart from other provisions. Proper working conditions include ensuring health, safety, proper working hours at work, leave, and other benefits for workers.

Equal Remuneration Act, 1976

The Act applies to a wide range of employment including the informal sector. The Act goals at providing equivalent remuneration to men and women workers and prevention of gender discrimination, particularly against women on the ground of gender. It provides that no discrimination should be made in remuneration for the same work or work of a similar nature only on the ground of men and women discrimination.

The Minimum Wages Act, 1948

The Act binds employers to pay their workers the minimum wages fixed under the Act from time to time. It protects the interests of workers by providing fixation of minimum wages mainly focusing on the unorganized sector and in specified occupations (called scheduled employments) and Central and the State Government, review and enforce the payment of minimum wages without any discrimination of gender.

Domestic workers and social security Act, 2010

Women and children are more vulnerable to exploitation so the government has formulated this act for providing them with better working conditions including registration.

RELEVANT LITERATURE AVAILABLE CONCERNING THE PRESENT TOPIC

After the brief discussion and introduction of the topic for the understanding of the real condition and the nature of women workers in the unorganized sector, the researcher has studied some literature on the rights of women workers in the unorganized sector and briefly discussed as follows:

“Women's Rights Access to Justice,”⁹ The author said that the right to a safe workplace is a women's human right. According to him, in both rural and urban areas, women get lower wages than men for doing the same job. Legal illiteracy, insensitive and male-dominated enforcement agencies, and the judiciary continue to act as major impediments to accessing justice for women as well as providing many other obstacles to women in access to justice. He has shared some real incidences of sexual abuse and molestation of females.

“Crime against Working Women”¹⁰ discussed, that the problem of women workers is the difference between the wages of males and females. He focused on the problems of informal women workers.

“Right-Wing Women,”¹¹ The author said that women exploiting their rights fear and discusses the issues of abortion, sexual equality, and anti-feminism.

“Legal protection to unorganized labour”¹² The author has attempted to define the meaning of the unorganized labour system which is in the existence in one form or the other in Indian Society. The study of this book also throws light on the historical evolution of the unorganized labour sector.

“Informal sector in India: its coverage and contributions”¹³ This article analysed that India's manufacturing sector has a large unorganized component (comprised of units with less than 10 employees using power and those units with 10 to 19 employees not using electric power) employing about 3/4th of the manufacturing workforce and contributing 17% of the total National Domestic Product (NDP) of the unorganized non-agricultural sector.

“Labour welfare and Social security in Unorganized Sector”¹⁴ The study enlightened the concept of social security and emphasized that social security is a very important aspect of social protection. In our modern society, social security is an important tool to strike at the root of poverty, unemployment and disease.

“Liberalization and gender discrimination in the informal sector”¹⁵ In this article, the author has found that women are mainly occupied in unpaid and part-time jobs and their share in hired workers' conditions is very low. Poverty can be tackled by providing opportunities for productive employment to women. In the unorganized manufacturing sector of India, the feminization of part-time jobs can be associated with the urbanization of female workers. Also, among the three types of enterprises, follow the least discriminating practices among men and women workers. It was suggested that true and just development can be achieved only when half of the world population is recognized as equivalent to the other half.

“Labourers of Unorganised Sectors and their Problem”¹⁶ In this article, the working condition of labour at the workplace is not satisfactory in India. The major initiative by the government is the Unorganized Workers Social Security

⁹ P.D. Kaushik, *Women Rights: Access to justice* 352(Bookwell, Delhi,2007).

¹⁰ Prabhat Chandra Tripathi, *Crime Against Women* 400(Ashish, India,1999).

¹¹ Andrea Dworkin, *Right Wing Women*(Coward, Mccann,1983).

¹² Abdul Majid, *Legal protection to unorganized sector*341(Deep,2000).

¹³ Kulshreshtha and A.C.Singh, “*Informal sector in India*”(2001).

¹⁴ Gupta Meenakshi, “*Labour welfare security un organized sector* (Deep and Deep, Delhi,2007).

¹⁵ Garg Neeru “*Liberalisation and Gender Discrimination in Informa sector*” International Journal of Multidisciplinary Research(2012).

¹⁶ Dr . Subasish Chattererjee “*Labourers of Unorganised Sector and their Problem*”International Journal of Emerging Trends in Science and Technology (Gujrat 2016).

Act, of 2008. But the reality is quite different as the act has been proved to be a tiger without a tooth. As well as legislation does not mention unorganized workers specifically nor do they prohibit coverage of them. In the informal sector, 90% workforce is engaged and face various types of problem in their regular life they are very close to their workplace extending working hours is a consistent exercise exploitation and hazardous workplace are very common.

"Laborers of unorganized sectors and their Problems,"¹⁷ Concluded that the Maximum numbers of women workers are consistent victims of low wages when contrasted with men in the article. There are several legislations for the security of the labour force but those laws are routinely executed in organized sectors yet in actuality, it is not used methodically in unorganized sectors.

"Unorganised Women Workers and Social Security,"¹⁸ Concluded that gender bias is omnipotent and gender stereotyping is the usual practice in the labour market in India. Gender marginalization is the unwritten mode of employing women workforce and even the most elaborate and systematic social security laws and schemes or labour law mandate lack efficacy in the absence of implementation or enforcement mechanism. The present book examines all aspects of the working of women workers by focusing on social security laws and systems in India.

CONCLUSION

Human rights are those minimum rights which are compulsorily accessible by every individual as she is a member of a human family. The Indian constitution of India also guarantees the impartiality of the rights of men and women. And all give to respect women in our society by human nature to support them and encourage freely independent living in our society. Women labour constitute one-third of the rural workers who face serious problems related to work such as lack of insecurity, wage discrimination, unhealthy job relationship and major problem poverty, lack of access to education and inadequate healthcare services. There are no statutory provisions to ensure fair working conditions in the unorganized sector for women in India. The Constitution of India provides equal rights and opportunities to both genders. In addition, there are specific provisions for the protection and welfare of working women in many of the labour laws.¹⁹ In the Constitution of India, social security for all is considered a basic Human right under the Universal Declaration of Human Rights. Every member nation of the U.N.O. must strive to further promote these basic rights. As the research on the subject of rights and social security for women workers in the unorganized sector reveals, though many schemes and policies have been evolved both at the central and state level to achieve the said object the result is not satisfactory due to non-proper implementation of the schemes properly. We need more such initiatives and stronger policies to protect and uphold their rights because these women contribute a substantial part to the Indian economy. Being a welfare state and socialist we must work for their betterment.

REFERENCES:

1. Manju, "Females in unorganized sector – Issues in India" *International Journal of Applied* 830 (2017).
2. Sahana Priya Satish, "Women in unorganized in the sector -does the law protect them" *IRALR* (2020)
3. Chatterjee, "Labour of unorganized sector and their problems" (2016).
4. Dr Hema v. Menon "*Unorganised Women Workers and Social Security*" *Satyam law International* 367(Delhi,2012).
5. Pratik Banerjee, "Women in the informal sector" *Legal service India* (2005)
6. Andrea Dworkin, *Right Wing Women* (Coward, Mccann,1983).
7. Abdul Majid, *Legal protection to unorganized sector*341(Deep,2000).
8. (Prevention, Prohibition and Redressal) *The Sexual Harassment of Women at Workplace Act,2013*
9. *Crimes against Women under the Indian Penal Code, 1860 IPC*
10. *The Unorganized Workers Social Security Act,2008*
11. *The Factories Act, 1948*
12. *The Equal Remuneration Act, 1976*
13. *The Minimum Wages Act, 1948*

¹⁷ Chatterjee, "Labour of unorganized sector and their problems"(2016).

¹⁸ Dr Hema v.Menon "*Unorganised Women Workers and Social Security*" *Satyam law International* 367(Delhi,2012).

¹⁹ Pratik Banerjee, "Women in the informal sector" *Legal service India*(2005)