

Caring for the Uncared

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Abstract

The present paper seeks to expound the issues and challenges relating to the provisioning of social security for the unorganized sector. Also examined are the provisions of the unorganized sector Social Security Bill 2007.

Key words: *Social security, labour management, labour economics, unorganized sector workers, informal sector workers.*

Introduction

The 12th Five Year Plan (2007-12) envisages inclusive growth implying thereby fair and equitable distribution of the fruits of growth to all sections of society, which calls for increased earnings with a sense of social empowerment which ensures harmonious and peaceful living not only while earning but also in the post-non-earning phase of life. This assumes importance in the context of speedily obsolete skills, shortening of the earning cycle and enhanced age of living owing to the longevity of life caused by improved health and sanitation conditions.

The well-being of all workers, particularly of those in the unorganized sectors who constitute 93% of the workforce, calls for the enactment of a social security legislation to ensure a minimum level of protection to the workers in this sector as they also need social protection more than those working in the organized sector. There remains a large section of society - characterized by a non-contractual, irregular working period, unevenness of income, a poor level of knowledge and skills and incapacity to form unions and because of the nature of economic activities commonly referred to as unorganized sector wage earners/self-employed - which not only suffers from decencies of life but lives in sub-human conditions and is exposed to the miseries of a crumbling system which hitherto was the provider of social security during the time of sun-setting in one's life. Against this backdrop, the paper seeks to underscore the need for providing social security measures for the people working in the informal sector. It is divided into four parts. Part I highlights the semantic muddle surrounding the concept of informal sector and expounds the characteristic features of this sector. It is followed by a synoptic analysis of certain segments of the informal sector so as to gauge the magnitude of the problem. This section heavily draws on the report of the second Labour Commission (2002). The third section evaluates the salient features of the

Bill 2007, pending before Parliament for its consideration with a view to highlighting the difficulties to be experienced and the problems to be encountered if it is passed in the form of an Act. The last section suggests ways and means to extend social security measures to the people of the informal sector.

Part I

Concept of the unorganized sector

It is a difficult task to conceptualize and define the unorganized sector. To say that it covers the area that falls outside the purview of the organized sector would be too simplistic. A single or primary criterion or characteristic by which the sector could be defined is not there, nor can it be defined or described on the basis of the nature of work alone because it includes tribal forest workers and home-based, info-tech and software workers as well. It cannot be based on the number of employees in the undertaking because it covers agricultural workers, craftsmen, and self-employed workers, workers in weavers' cooperatives and workers in small scale industries where the workforce cannot be counted owing to the inconsistency of the volume of work. It cannot be based on the level of the organization because some of the enterprises may have very few workers, and even these may be working in a dispersed manner with hardly any organizational link or interaction with each other, at some times because of the nature of work and at others because of the geographical or locational dispersal of the workers pursuing the same vocation.

The concept of unorganized/informal sector is difficult to put within the boundaries of a specific definition for the reason that though the two terms are different, they are in common parlance used interchangeably. The word "informal" implies "casual", "not according to the prescribed official or customary form" while "unorganized" means "not having membership in the labour union". Therefore, "non-unionized" does not mean "informal sector". For example, persons working in BPO and ITES are neither unionized nor informal because they work under specific contractual conditions whereas people in the informal sector belong to the category of casual, part-time, temporary *beedi* making workers, lacquer workers, handloom workers, brass polishing workers (buffers), carpenters, home-based workers, maidservants and rickshaw pullers. As opposed to this loaders and unloaders and cart operators are non-unionized but operate in the unorganized sector. The 2nd Labour Commission was conscious of this fact.

The unorganized sector was defined by the 1st National Commission on Labour, under the chairmanship of Justice Gajendergadkar, as that part of the workforce 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 establishments with low capital investment per person employed, (d) scattered nature of establishments and (e) superior strength of the employers operating singly or in combination. The commission illustrated some categories of the unorganized sector, which are: (i) contract labour, (ii) construction workers, (iii) casual labour, (iv) labour employed in the small scale industry, (v) handloom workers, (vi) powerloom workers, (vii) *beedi* workers, (viii) cigar workers, (ix) employees working in shops, (xi) employees serving in commercial establishments,

(xi) sweepers, (xii) scavengers, (xiii) workers in tanneries, (xiv) tribal labour and (xv) unprotected labour. The National Commission on Self-Employed Women (1987) held that women workers also form a part of the unorganized sector. Its report characterized the unorganized sector as one in which women do arduous work as wage earners, piece-rate workers, casual labourers and paid and unpaid family labourers. The report stated that the economic and social conditions of these women were dismal.

The NCAER–SEWA workshop, however, raised doubts about this enterprise-based definition of the informal sector and observed that such a definition would leave out workers who were working on a contract basis. It was of the view that the definition should be based on activities and ranks of the self-employed producing non-tradable services and items for the local markets. It further stated that the National Accounting must cover the informal sector, which included home-based workers, artisans, contract workers, besides the workers in the unorganized sector of services, manufacturing and agriculture.

It can therefore be inferred from these observations that the dimension of the unorganized sector is too vast, indeed, to remain within the confines of a conceptual definition. The unorganized or informal sector most often is therefore identified by using descriptive means and the characteristics of this sector. According to the 2nd Labour Commission's report the characteristics of this sector are : (i) high incidence of casual labour, (ii) intermittent jobs at most of the time, (iii) extremely low wages, (iv) self-employment with meager un-economical returns, (v) lack of job security, (vi) little or no social security benefits, (vii) high exploitation, (viii) longer working hours, (ix) unsatisfactory working condition and (x) constant occupational health hazard threats.

To avoid any semantic debate it would be better to prefer the spirit of interchangeability and hence concur with the 2nd Labour Commission. Semantic refinement may lead to a better statistical classification of the data (fruits) emanating from the same tree.

PART II

Why do we need social security?

It would seem that the vocations, employments and conditions of work are so varied and disparate that it is impossible to provide protection and welfare to all the workers in all the sub-sectors discussed above, with one uniform legislation or system for the welfare and social security of the workers. There, therefore, arise the challenge and the need to address this problem.

It is most often said and perhaps universally accepted that there are areas in the unorganized sector where it is difficult to identify all "employers", and hence an employer–employee relationship which the law can attempt to channelize/influence by defining rights and responsibilities, and building up a system of social security on a contributory basis. The employer of construction or brick kiln workers can perhaps be identified and even a worker who collects minor forest produce as one

who works for a contractor or the forest department. But no employer can be identified for a fisherman who casts his net into a pond or stream or for a woman who spins or weaves or tends livestock at home to sell surplus milk to a co-operative or to a consumer who lives in her neighborhood. This difficulty in identifying all employers–employees' relationship has its corollaries that have to be taken into account when one comes to the formulation of social security legislation for the workers of this sector.

The director general of the International Labour Conference (1987) on the Dilemma of the Informal Sector referred to the role of this sector in promoting employment, the absence of adequate laws for providing protection to workers in this sector, and the scope for application of the international labour standards in this area.

There is a total lack of job and social security benefits. The areas of exploitation are high, resulting in long hours, unsatisfactory working conditions and occupational health hazards. The National Commission on Rural Labour (1987) pointed out that (a) the number of rural labour both in agricultural and non-agricultural activities was increasing at a rate faster than the rate of growth of the rural population, and (b) a number of factors like the uneven and declining labour absorption in agriculture, declining land base and scarcity of non-form employment opportunities had led to large-scale migration and casualization of the rural labour.

The instances of workers' categories and their conditions

The 2nd National Commission on Labour was entrusted with two main tasks: (1) to propose umbrella legislation for workers in the unorganized sector and (2) ensure at least a minimum protection and welfare of workers in the unorganized sector. It was for the first time that the government even particularly asked a commission to propose umbrella legislation to ensure the protection and welfare of the workers in the sector. The variety of complexity, dimensions and the paucity of information about the conditions of work involved in the sector emphasize the need for a comprehensive, if not an exhaustive, study of the different kinds of employments and the needs of the workers in this sector.

Some of the specific groups of employments in the unorganized sector and the problems confronted by them are enumerated by the 2nd Labour Commission as follows:

Construction labour

Most of the workers in this sector are employed on a casual basis. Unstable employment/earnings and shifting of workplaces are the basic characteristics of the work for construction workers. Employment in construction is usually interspersed with periods of unemployment of varying duration, mainly due to the fluctuating requirements of the labour force on each worksite. The nature of work is such that there are no holidays. Surveys reveal that female workers do not in general get the minimum wages. Though skilled workers secure jobs directly from employers, unskilled workers, by and large, are engaged through intermediaries who introduce them to contractors on a commission basis. Also the payment of wages is routed through the intermediaries who usually enrol workers by offering loans. These loans are then recovered by manipulating the wages of the

workers, with the result that they hardly get out of the clutches of the intermediaries. Since workers are generally recruited on a contract basis, failing to achieve the required quantum of work results in either deductions or uncompensated overtime work. In return for providing jobs, the intermediaries often collect a commission from each worker at a fixed rate for each working day. Women engaged in construction work are the most exploited. Surveys on construction workers disclose their skepticism about the effectiveness of the first aid assistance provided at sites. What is worse, the contractors remove sick and injured workers from the sites and payrolls without giving them adequate compensation.

Social security benefits are virtually non-existent because of various constraints, such as lack of a stable connection between employers and employees, instability of employment, poor and uncertain earnings of the workers, unreliable duration of work etc and more importantly, the need of the hour which frustrates the application of rainy days.

Unorganized construction workers can truly be described as sweat labour, and violation of the laws on minimum wages, equal wages, child labour, contract labour, inter-state migrant workers etc is rampant in construction as in agriculture and home-based occupations. Unionization is not allowed or encouraged, and consequently construction workers, like many others in the unorganized sector, remain invisible, vulnerable and voiceless.

Most construction workers are out of employment during the monsoons. In quarries and brick kilns as well as on big construction sites, a system of bondage exists and gets extended from one generation to the next through child labour.

The existing labour laws applicable to construction workers are based on inspection, prosecution, fines etc. However, legal processes are so time-consuming that the aggrieved worker may be out of employment or employed elsewhere by the time the redressal materializes. S/he cannot leave his/her worksite, forgoing his/ her daily wages to go elsewhere to pursue complaints against the violation of laws. His/her lot, therefore, is one of near helplessness in the face of injustice and exploitation. The existing laws do not give adequate protection to workers against victimization.

In the post-liberalization period, the Indian construction industry is witnessing many structural changes which are going to radically transform the industry as well as the construction labour market. Since the industry has so far been based on labour intensive technologies, it has been a source of ready employment to a large mass of the urban and rural poor. In fact, one major factor, which has been discouraging the modernization of the construction industry, has been the abundance of cheap labour. The present trend towards the induction of modern technology in the construction industry is likely to transform the traditional labour market and indicate that there would be increased mechanization and manual and women workers would, therefore, be increasingly reduced from large construction projects.

Only 8 out of the 999 workers interviewed stated that they were members of any trade union. Delhi has at least 3 registered trade unions of building workers, and

many social activists who claimed to be leaders of building workers. The report says none of them had visited the building sites or labour colonies of building workers. This may be an exaggeration. But it indicates the scant attention these workers receive from organized trade unions.

The social safety network of building workers is built around kinship and tradition, and trade unions have not yet found a place in this system. Contractors are paternalistic; their style of management may be authoritarian. A contractor may be tight-fisted in fixing the rates of payment and may not always spend on urinals and other facilities at worksites. But he would be generous when a worker sought help from him for celebrating his daughter's marriage, attending to illness in the family etc. If a worker gets into trouble with the police, as it happens not infrequently, it is the contractor who bails him out.

Home workers/home-based workers: The home worker or home-based worker falls within a gray area, in a category between employed workers and self-employed workers. There is no system to enforce minimum wages because of the informal relationship between the worker and the employer, the employer's agent or the contractor. Usually, the home worker is looked upon as a self-employed person, and not a "worker". But, there are self-employed workers as well as workers employed by others among home-based workers. It has been pointed out that the term "home-based workers" refers to two types of workers who carry out remunerative work within their homes – a) independent own-account producers and b) dependent subcontract workers – whereas the term "home workers" refers only to the second category. Under this usage, home workers are a subset of home-based workers. Both types of home-based work involve production for the market, and should not therefore be confused with unpaid housework or subsistence production. Another term used for the subcontract workers who work from home is "industrial outworkers."

The ILO Convention No. 177 of 1996 (Convention Concerning Home Work) clarifies that "many International Labour Conventions and Recommendations laying down standards of general application concerning working conditions are applicable to home workers." It says further, "It is desirable to improve the application of those Conventions and Recommendations to home workers, and to supplement them by standards which take into account the special characteristics of home work."

Article 1 of Convention No. 177 defines a home worker and an employer. Article I of the Convention states:

- a. *the term 'home work' refers to the work carried out by a person, who is to be referred to as a home worker, in his or her home or in other premises of his or her choice, other than the workplace of the employer, for remuneration; that which results in a product or service as specified by the employer rendering the services specified by the employer for remuneration, and the work being carried out at home or a place of the worker's choice.*
- b. *persons with employee status do not become home workers within the meaning of this Convention simply by occasionally performing their work as employees at home, rather than at their usual workplaces;*
- c. *the term 'employer' means a person, natural or legal, who, either directly or through an*

intermediary, whether or not intermediaries are provided for in national legislation, gives out home work in pursuance of his or her business activity.

- *Article 4 of the Convention calls for the promotion of equality of treatment for home workers including provision of the right to organize, protection against discrimination, occupational safety and health, remuneration, statutory social security protection, access to training, minimum age for admission to employment, and the right to maternity protection. The South Asia Declaration on Home-based Workers, held in Kathmandu on 18-20 October 2000, in which the national governments of India, Pakistan, Bangladesh, Sri Lanka and Nepal, and trade Unions, NGOs etc. from South Asia participated, also endorsed the need to assure these rights. The ratification of this Convention of the ILO was expected to offer substantial safeguards to millions of home workers in India.*
- *A National Consultation with the Labour Secretaries, Labour Commissioners of the State Governments, representatives of Central Ministries and Departments, research and academic institutions, and NGOs/representatives of home irrespective of who provides the equipment, materials or other inputs used, unless this person has the degree of autonomy and of economic independence necessary to be considered an independent worker under national laws, regulations or court decisions;*

The ILO definition, thus, does not give importance to who provides raw materials and inputs. It only refers to such factors as the dependency of the worker, his or her involvement in producing the product. The National Consultation on Home-based Workers was held on 17 January 2000 in New Delhi. The discussion paper presented by the Ministry of Labour at the Consultation made an effort to define home-based workers (HBWs). Paragraphs 4 to 12 of the paper try to explain the characteristics and situation of HBWs in India. The paper stated: "Home-based Workers are those who are otherwise unemployed, intending to, but not absorbed by the organized sector, with skills limited to certain jobs which have economic value... ." The issues and problems of such workers are complicated because there is no direct employer-employee relationship between the home worker and the person or organization for which he works - the relationship being of a loose, contractual and tenuous nature. The home worker has, thus, economic dependence on the person for whom he works, but the latter carries no responsibility for him. The relationship being ambiguous and indefinite, he is also subjected to exploitation in various forms. At best the relationship begins with the assignment of task and ends with the completion thereof. The home worker is, thus, a self-employed person conducting his economic activity for a person or an organization. The mode of payment or price can be on a piece-rate or time-rate basis, depending on the economic activity. Among these home-based workers there are some for whom this is their main economic activity, while there are others for whom this is a supplementary source of income during their spare time. The gravity of the problem of home workers is therefore felt more acutely by the former category than by the latter.

There is still some amount of avoidable confusion regarding the term "HBWs". HBWs would really indicate that they are workers within the confines of their respective homes and could be termed "self-employed" as well. In many of these

cases, either the head of the family or a member of the family does the work himself/herself with the help of other members of the family. It is a collective self-employment effort and strictly speaking, there is neither an employee nor an employer. In fact, all these home-based workers are workers,* materials managers, production managers, finance managers, personnel managers, marketing managers and chief executives of their businesses – all rolled into one.

The above paper presented by the Ministry of Labour puts the informal count of home workers in India at around 50 million. It bases its tentative count on the survey done by SEWA. The categories of home-based workers in some of the major States of India are as follows:

Rajasthan: *beedi*, *agarbatti*, readymade garments, weaving shawls and *durries*, wool spinning, food preparing and packing, handicrafts and traditional crafts, block printing.

Delhi: *zari* work, garments, *lifafa* (envelope) making.

Madhya Pradesh: *beedi* making, readymade garment stitching, smocking, embroidery, making *agarbatti*, *pappad* making, *zari* work, collection of tendu leaves, and collection of herbs and broom making.

Bihar: lacquer work, weaving, spinning, bamboo work, *pappad* rolling, shawl weaving, *beedi*, packing cooked food, *tussar*.

Maharashtra: *beedi* making, leather work, rope making, cashew, garment making, cardboard box making, cleaning and sorting onion, seafood, handicrafts, food products.

West Bengal: handicrafts, lacquer work, bamboo work, spinning, weaving seafood, jute work, carpet making, garment stitching, sack making, leather work and footwear.

Tamil Nadu: woolen carpet making, shawl weaving, *beedi* rolling, manufacture of scented betel nuts, garment stitching, handloom weaving, ornament making, polishing gems, making utensils, lacquer work, sea foods, footwear.

Karnataka: *beedi* making, *agarbatti*, readymade garments, making pickles, cleaning and packing food.

Uttar Pradesh: *beedi* making, working on handlooms, readymade garments, *chikan* work, food products, lacquer work, rope making, *zari* work, carpet weaving, bangle polishing, buffing of brass wares.

The National Consultation on Home-based Workers, mentioned in the earlier paragraphs, was of the view that terms like "home worker," "self-employed person" and "own-account worker" should be defined, and policies should be formulated to cover each of them.

The recommendations that emerged from the Consultation suggest that the definition of home workers be limited to wage earners working for outside

* Though such people are basically "bread-earners", yet in a broader sense we refer to them as "workers" albeit no employer-employee relationship in the strict sense of Law of Contract arises out of employment.

employers; that they should be included under the Minimum Wages Act so as to receive a minimum level of wage protection; that welfare schemes and provisions existing under different labour laws should be extended to them; and that the existing provisions in the organized sector should not be transplanted to the home workers. These recommendations, however, ignore the fact that self-employed home workers are also workers in the unorganized sector. Technically, it is important to note that there are both wage-employed and self-employed among the home-based workers. These two groups of home-based workers may need different measures for protection and welfare.

Domestic workers: There are numerous categories of workers in our country. Of these, there are domestic workers whom we find in the urban as well as rural areas. It is clarified here that HBWs who work from their homes are not categorized as persons engaged in domestic service. There is no reliable estimate of the number of persons who are engaged in domestic service. Perhaps, no effort has been made to arrive at such an estimate, obviously, owing to the difficulty in trying to make an estimate of this category of workers. They are somewhat visible in the urban areas, and it may be possible to make some estimate of their numbers in the towns and cities of our country. But, we cannot forget the fact that households all over the country, even in the most distant, dispersed and intractable areas of our country, employ women or children and in some cases both women and children for helping them with their household work. There are some men too who are employed in such work. But it can be said without fear of contradiction that a majority, perhaps a predominant majority, of those engaged in this category of service are women and children. An estimate made by the College of Social Work in Bombay claimed that 80% of the domestic workers are women.

It is well known that many people employed in domestic work are those who have migrated to the urban areas in search of employment. It is believed that domestic service does not need any special skill. Perhaps those who seek such services are also under the impression that they will be protected in the household, and will receive the kind of treatment that can be expected from the members of a respectable family. There are many instances which show that they are extremely poor and illiterate and that they come from rural areas and have no acquaintance with the ways of towns people.

They have to eke out their existence and therefore often agree to work at nominal wages, taking the risks of uncertainty and uncivil or inhuman conditions of work and treatment. The existing laws do not provide them with the protection they need. It is well known that there is no system of social security on which they can fall back. In general, the circumstances are such that domestic workers have a very hard life. They have to work many hours, rise much before their employers do, doing a variety of work, and are sometimes made to work with very few hours of undisturbed sleep. There are no fixed hours of work. They have to be at the beck and call of their employer. In many cases, they are not provided with adequate food. In some cases, they have to be satisfied with the leftovers of the employers. They do not earn enough to buy adequate clothing, and in some cases clothing that will protect them from the vagaries of the climate. Again, in many cases, they are

not provided with a safe and clean place where they can rest and sleep. It is not our contention that all households in which domestic servants are employed treat their servants shabbily. There are many employers whose attitude is paternalistic, and who look upon those who work in their homes as those who work with them, helping them with the daily chores in the household. In many houses, the housewife also works with the domestic worker. In spite of all this, it can hardly be claimed that the domestic worker gets his/her hard-earned dues in terms of wages, limitation on hours of work, humane treatment, care in case of illness, opportunity to enjoy leisure, medical needs and so on. It must be pointed out that since most of the domestic servants are women and children, they run the risk of sexual harassment and exploitation in some houses. Further, when they are not fit for working due to old age, there is no financial or other support.

It is therefore very clear that domestic servants must be provided with at least a modicum of protection and satisfactory safeguards for security. In Mumbai, a non-governmental group has formulated a bill for the protection and safety of domestic workers providing for the benefits of PF, gratuity, medical needs, leave, fixed working hours, wages and other social security measures. The bill seeks to ensure that:

- a) *the domestic worker is recognized as a worker, and issued an identity card and/or letter of appointment.*
- b) *the working hours for domestic workers are fixed at 8 hours a day.*
- c) *they are paid overtime allowances in case they have to work longer.*
- d) *they are entitled to some free time during the day.*
- e) *they are entitled to a night's rest.*
- f) *they are entitled to one paid holiday in a week, and 15 days leave with wages after one year of service.*
- g) *they are allowed 15 days sick leave every year.*
- h) *they have access to the provisions of PF and gratuity and are provided with uniforms.*
- i) *they have living quarters which are strictly hygienic and have security.*
- j) *the employer gives one month's notice if he wants to dispense with the services of the worker.*
- k) *there are provisions in the law for periodic inspection to verify that the conditions in which domestic workers are employed are consistent with what the law lays down. The Social Security Bill, 2007 provides for social security but does not take care of the working conditions*

Mines and quarry workers: The Mines Act, 1952 covers persons employed in mining operations including transporting minerals to the point of dispatch, or within the mining area, or in any operations relating to the development of the mine, or in any operation of servicing, maintenance, or repair of any machinery used in the mine or in any office in the mine, or in any welfare health or conservancy service required to be provided under the Mines Act, or any watch and ward staff within the premises of the mine (excluding the residential area), or in any kind of work

whatsoever which is preparatory or incidental to or connected with mining operations.

Mines can be divided broadly into three categories:

- a) Public sector mines whether worked independently or as captive mines of public sector enterprises such as Coal India Ltd. (CIL), Steel Authority of India Ltd. (SAIL), Hindustan Zinc Ltd., Hindustan Copper Ltd., National Aluminium Company (NALCO), Cement Corporation of India Ltd, Kudremukh Iron Ore Co. Ltd., Mines of National Mineral Development Corporation (NMDC), Uranium Corp. Ltd., the oil fields of the Oil and Natural Gas Commission (ONGC), Oil India Ltd. etc. The private sector captive mines of some of the larger steel and other smelting plants such as ferro manganese, ferro chrome, cement etc can also be included in this category.
- b) Larger private sector metalliferous and non-metalliferous mines.
- c) Small mines and quarries.

The first category of mines workers are those most of whom are employed directly by the enterprises while, on some jobs, contract labour is also engaged. In the second and third categories of mines, workers are mostly employed through contractors.

The mines falling in the first category provide welfare measures for workers, such as healthcare, education of children and housing or house rent allowance. They also provide social security benefits in accordance with the social security laws and schemes. The mines of the second category normally provide social security benefits as per social security laws, but other benefits such as healthcare or housing needs are not taken care of by the employers. In the third category of mines, workers do not have the benefit of any welfare measures. Employers normally try to avoid implementing social security laws and schemes in these mines by circumventing laws in various ways. Since these mines are normally operated through contractors, they employ fewer workers than the threshold limits that social security laws prescribe for the applicability of these laws. The problem gets further aggravated because contractors are changed frequently and the workers, therefore, do not fulfil the requirements for entitlement to social security. For example, the payment of Gratuity Act (1972) requires five years of continuous employment with an employer to make an employee eligible for gratuity. Similarly, because of the frequent changes of employers or contractors, the membership number under the Employees Provident Fund Act (1952) also changes with changes in the code number of the employer. Consequently, contributions made by the employees towards the PF do not get credited to their accounts. In case of accidents too, contractors in such mines avoid the payment of workmen's compensation by various means such as holding out threats of removing from employment, intimidating workers and discouraging them from reporting to the authorities, or making out of court settlements by paying lower amounts than what is payable in law. Though the Minimum Wages Act (1948), the Equal Remuneration Act (1976), the Contract Labour (R&A) Act (1970) and the Interstate Migrant Workmen's' (RE&CS) Act (1979) apply to the workers in these mines, it is found that these laws are observed more in violation than in application. The incidence of child labour and bonded labour too is seen in quarries

in gross violation of the Mines Act (1952), the Child Labour (P&R) Act (2000), and the Bonded Labour System Abolition Act (1976).

The working hours in the mines are irregular. There is no provision for holidays or a weekly off, nor is there a system of sick/maternity leave or compensation for illnesses or injuries.

Plantation workers: The Plantation Labour Act 1951 applies only to those plantations which measure 5 hectares or more, and in which 15 or more persons are employed or were employed on any day during the preceding 12 months. It includes workers employed in offices, hospitals, dispensaries, crèches, *balwadis* and schools, but does not include those employed in a factory, medical officers or those employed in managerial capacity. It also does not apply to workers who get monthly wages of more than Rs.750. The minimum wages received by a plantation worker in the South today vary between Rs. 59.02 and Rs. 81.75 per day, and in the North East from Rs. 40 to Rs. 61.20 per day, both of which are much higher than Rs. 750 per month. Thus, legally, the situation that exists today is highly anomalous. No worker in any plantation is covered under the Act because it stipulates an upper wage limit of Rs. 750 per month.

Workers engaged in jobs other than harvesting of crops are paid wages on a time-rate basis ie daily rates, while those engaged in harvesting are paid wages on the piece-rate system. For workers on the piece-rate system, there are incentive schemes too, if their output exceeds fixed norms. In plantations in Southern India, wages, including payments of incentives, are decided by mutual negotiations, while in Assam they are paid as notified by the state government under the Minimum Wages Act, 1948.

Trade unions at Thiruvananthapuram and Guwahati stated that proper wages are not paid to contract workers as the middlemen keep their margin. The Commission recommended that the state governments and the employers ensure that workers are paid proper wages as decided by settlements or notified under the Minimum Wages Act, 1948, and middlemen do not siphon away part of them as they legitimately belong to the workers. Almost all plantations have trade unions. While these are quite strong in plantations in the South, they are weaker in Assam because of the difficult terrain and the current law & order problems.

Rickshaw pullers: Rickshaw pullers, particularly in the North, are mostly migrants. They migrate from Bihar, Orissa, Madhya Pradesh, Uttar Pradesh and Rajasthan to bigger towns and cities. Most of them are small peasants or landless workers who were forced to migrate to the cities due to feudal oppression, exploitation by land mafia, or natural calamities like recurring floods. In big towns they have no place to stay. They generally sleep on footpaths or in their rickshaws. All of them do not own rickshaws. They hire them and have to pay a large sum of money as rent, even if they do not earn enough. Often the police harass them. They do not have any social security cover.

Rickshaw pullers are among the least protected workers in the unorganized sector. Conditions are neither regulated nor are their social security issues addressed. The vulnerability of the rickshaw pullers is further accentuated by the fact that the

majority of those who pull rickshaws do not own them. In a city like Delhi, only 14.6% of rickshaws are licensed. The rules of the Municipal Corporation permit only one rickshaw for one person. They also stipulate that the owner himself has to be the puller. Widows and physically handicapped persons are allowed to own 5 rickshaws, and to give them on hire. Illegal ownership and unlicensed plying add to the complexity of the conditions in the sector.

The only investment the rickshaw puller has to make is his relationship with a person who is known to the rickshaw owner. It is this acquaintance which enables a prospective rickshaw puller to hire a rickshaw and start his vocation. While, in principle, in most of the cities only the rickshaw owner can be the rickshaw puller, in practice this happens only as an exception. There are individuals who own a fleet of rickshaws, which are hired out on a daily rental to the rickshaw pullers. At the end of the day, the rickshaw puller has to pay the rent.

The life of a rickshaw puller is not, however, easy. The nature of the work itself has a number of hardships built into it. It is hard work further aggravated by the badly maintained roads. The rickshaw puller has to work in the open and, therefore, is at the mercy of nature. During summer, he has to face the blistering heat and in winter, the chill makes it difficult for him to go about his normal work. The monsoons are perhaps the worst from the point of view of his profession. In Kolkata, during rains, it is a common sight to see the rickshaw puller wade through knee-deep water to ensure that his passenger reaches home safe and dry. It is a different matter that in the process he himself becomes vulnerable to diseases like influenza and others.

The rickshaw pullers have no schemes of social security to ensure that they are taken care of during sickness. Most of the municipal and government agencies treat rickshaws as a hindrance rather than an agency which is performing irreplaceable and useful work for society. The traffic police view rickshaws and other non-motorized vehicles as a traffic bottleneck. The municipal authorities share the same view. They, thus, do not feel the need to create sheds or parking space for rickshaws. There have been a few experiments to create separate lanes for cycles and rickshaws. But they have not succeeded. Since rickshaws, or at least the vast majority of them, are not legally owned, the rickshaw pullers cannot even think in terms of getting institutional loans to buy rickshaws. In any case, the local authorities make it so difficult for individual rickshaw pullers to obtain a licence that very few of them attempt to do so.

Non-recognition of rickshaws as a "mode of public transport" in the transport policy makes planners blind to the economic worth or utility of this sector. The opaqueness of the system breeds corruption aggravating the insecurity and exploitation of rickshaw pullers.

The "non-recognition" of the "economic worth" of rickshaws as a public utility has another consequence. The government and the private sector have never bothered to invest in the production of cycle rickshaws and on research and development that could lead to improvement. Cycle rickshaws are assembled locally with little scientific application in design and fabrication, affecting the stability of rickshaws.

Rag pickers: According to available estimates, there are about 50 lakh scrap collectors in the country. The number is far greater if labourers in scrap establishments and reprocessing units are included. Waste picking ranks lowest in the hierarchy of urban informal occupations. Illiterates, unskilled persons, illegal aliens and the poorest of the poor are pushed into this occupation as they are unable to find any other kind of employment. Generally there is no employer-employee relationship in this trade even though it is possible that some of the scrap picking activity is organized by contractors. Waste collectors are generally categorized as self-employed. Scrap collectors are not covered under the Shops and Establishments Act, (1954) as scrap traders do not provide any kind of receipts for them for the material they collect. No social security benefits are available to workers in this sector.

The United Nations Development Programme and International Labour Organization conducted a study of scrap collectors/scrap traders and recycling enterprises in Pune. The main objectives of the study were to assess the socio-economic conditions of these workers, to identify the variables to improve their living and working conditions, and explore the possibilities of extending the available legislation for their protection etc.

The preliminary findings of the study revealed that "the recycling sector is structured in the form of a pyramid with the scrap collectors at the base and the processors at the apex. At the bottom of it are the waste pickers who are engaged in the free collection of scrap from municipal corporation bins or from the heap of waste thrown in the open. Marginally above them are those who purchase small quantities of scrap from households. Between the scrap collectors and the re-processors and various levels of traders including retailers, stockists and wholesalers, the activity level of this pyramid differs in terms of the factors mediating in their socio-economic background, working conditions, market environment and levels of income.

The study pointed out that about 92% of scrap collectors are women in the age group of 19 to 50. The mean age of entry of those who enter this occupation is 9-10 years. Girls outnumber boys. Most of them are first generation migrants. Ten per cent of them resided in slum areas where civic amenities are not available. The mean monthly per capita income of a scrap collector's family ranges between Rs. 126 and Rs. 2, 233. One in four of these households falls below the poverty line. They normally work all the seven days of a week, with almost 10% leaving their homes at about 6 o'clock in the morning and returning late in the evening. They are also victims of harassment from police and municipal officials.

The study made the following recommendations:

- a) *Scrap collectors should be recognized as "unprotected manual workers" who contribute to the economy and the environment in significant ways. This large workforce assists all municipal corporations in their conservancy tasks. It is, therefore, essential that they enjoy the requisite status.*
- b) *There is also a direct economic gain to municipalities, in terms of reduction in their expenditure. It should translate into monetary compensation to the waste pickers. It could take one of the following forms.*

- *Creating a corpus for a fund that could be used for the welfare of scrap collectors.*
 - *Offering them life and health insurance cover*
 - *Recognizing the municipality as a part employer of scrap collectors and making necessary financial contribution to the Mathadi Board.*
- c) *It should be made compulsory to issue receipts to scrap collectors for each transaction. The large margins in the trade increase at each higher level, but the scrap collectors do not have any share in this margin despite the significant contribution that their labour makes to it. This should be recognized by regulating the scrap trade. All traders should be made to pay a percentage of their surplus, based on the value of transactions, to scrap collectors. This could be regulated by appropriate legislation.*
- d) *The conditions of work of scrap collectors, particularly waste pickers, are "abominable." Widespread and intensive campaigning should be undertaken to educate citizens about the advantages in segregation of garbage, and direct access to waste pickers should be mandated by the local self-government.*
- e) *Child labour in scrap collection is hazardous, and should be included in the schedule of hazardous occupations as listed in the Child Labour (Prohibition and Regulation) Act, 2000. Offering the parents incentives to educate their children should encourage their withdrawal from this sector. This could take the form of sponsorships, scholarships or special hostels for them.*
- f) *In the absence of credit facilities, scrap collectors borrow money at usurious rates of interest from moneylenders. In order to obviate the situation it is desirable that a self-help group be instituted and a culture of micro finance instilled besides formal, institutional channels of credit opening their doors to poor groups.*

The Commission recognized the useful role played by scrap collectors both in helping recycling activities and in maintaining civic hygiene and mentioned that they should essentially be protected from insecurity of various forms like exploitation by the middleman. The measures that could be thought of in this regard are providing identity cards, receipts for transactions, minimum wages when they are employed by contractors or other employers, health facilities, creation of welfare funds, prohibition of child labour from the activity and the like. The Commission fully endorsed the suggestions made by the UNDP and the ILO, and the Kagad Kanch Patra Kashtkari Panchayat of Pune and also recommended for their protection and social security and further desired that the municipal bodies should make appropriate regulations and arrangements.

Fishery: India is one of the major fishing countries. The industry contributes about 4.3% of the total export earnings of the country. The fish catch per year rapidly increased from 4.16 million tonnes in 1991-92, to 5.38 million tonnes in 1997-98. It resulted in a mushrooming of fish processing units along the Indian coastline. Many unregistered small units have also tied up with the registered units. There are more than 1 lakh migrant women workers employed in the seafood processing industry, directly or indirectly. They are mostly in the age group of 16 to 25 years and come from Kerala, Karnataka and Tamilnadu. These women are employed on contract or on the piece-rate basis. Though it is a seasonal industry, these workers are mostly

employed through contractors.

The Ministry of Labour sent a team to study the working and living conditions of fish processing workers in Kerala and other states during 1999 and 2000 and it found that in some units workers were compelled to work beyond 10.00 p.m., even on holidays. Even where the people worked for 2-3 years continuously, no provident fund contribution was made either by the employer or the contractor. In the majority of units, no regular medical facilities were available. It was also found that in many cases employment contracts were unwritten, and no employment letters were ever issued. This denied the workers any kind of protection and social security. The situation in other states is not different from that in Kerala.

At the Tripartite Meeting on Safety and Health in the Fishing Industry held in Geneva in 1999, it was recommended, *inter alia*, that priority should be given to ensuring occupational safety and health in the fishing industry by providing safety and health training for workers, enhancing social dialogues at all levels, extending social protection to cover fishermen, promoting appropriate international standards etc. Conditions may not improve merely by legislation, and, therefore, a "safety culture" has to be promoted, which can begin only when existing safety laws are enforced strictly.

The Commission was informed that the Ministry of Labour was also seized of the problem of lapses in the implementation of the provisions of the Inter-State Migrant Workers (ISMW) Act, 1979 and the Provident Fund and Employees State Insurance (ESI) benefits for workers in this sector. On the whole, the Commission found that there was an urgent need to ensure that fish processing units acknowledged their legal obligations on wages, overtime, maximum working hours and amenities etc and undertook to provide them to the fullest extent. It also recommends that contracts of work should be made in writing and signed with the free and informed consent of all the parties and the workers should be provided with a copy of the contract enumerating the rights and obligations of the parties in the language that they can understand; that the employers should maintain proper records of the wages, overtime etc paid to the workers; and that the workers should be provided with the protective equipment necessary like gloves, aprons and gum-boots and for those working in cold environment, proper woolen overalls. The workers should also be provided with clean and hygienic quarters/dormitories and facilities of drinking water, canteens, toilets etc. In particular, there is special need to ensure that the movement of workers is not restricted after working hours and they are not coerced to restrict their movement to the precincts of the factory complex. They should also be able to form their own associations and associate with the people outside without any fear or intimidation.

The provisions of the Inter-State Migrant Workmen Act, 1979 and the Contract Labour Act, 1970 should be strictly implemented in this sector. Strict monitoring and implementation of the Minimum Wages Act, 1948 should be ensured and welfare boards should be set up to look after the needs of social and health security in this sector.

India has a tremendous potential for the development of fish processing. The

capacity utilization of existing units is very low, but the industry has to be equipped with basic facilities required for hygienic processing. The Commission felt that while creating conditions for the growth and health of the industry, the interests of the workers engaged in it should also receive equal attention.

India has a coastline of 8041 kilometres with an estimated marine resources potential of 3.9 million tonnes.

The total working population in the fisheries sector in India (marine and inland) is estimated to be around six million. The largest proportion is involved in harvesting activity (66% approximately) and is composed mainly of men. Women are sometimes involved in inland fishing. They dominate the handling and processing activity accounting for about seven percent of the workforce. It is only in the harder manual jobs involved in the activity – like unloading of fish – that men have a monopoly. Though, the activity of marketing, which involves a quarter of the workforce, is largely carried on by men, there are notable regional differences. In some areas (such as Manipur and Assam) women predominate, whereas in others they are in the minority and in yet other areas, they hardly matter.

Harvesting is conditioned by the weather, and the availability of fish in the aquatic terrain. In the marine sector, there is the paradox that the season of rough weather (making it difficult for fishermen to set out to fish) is also the time when fish is available in plenty. The converse is also true, thus highlighting the extent to which the quantum of employment is conditioned by largely uncontrollable natural factors. This also tangentially reflects the state of technology that is being used in the sector, which is largely dependent on human skills. Recently, motorization has to a great degree reduced the fisherman's need to "wait for the fish to come his way": he can now go after it. Taking all this into account, a fisherman gets between 150 and 200 days of work in the year.

Seasonality in employment in the other sectors is also related to the weather at sea. Since that determines the availability of fish to handle/process/market, it can be said to be high in handling and processing, and moderate in the marketing sector. In these sectors, the range of days of employment may be from 100 to 250 in a year. Minimum wages and security of tenure are further jeopardized by the use of child labour and migrant workers. Immigrant workers are always faced with disadvantageous working conditions/ emoluments/ security of tenure etc when compared to the "natives."

Accident risk at work: The risk of accidents is especially high among workers in the harvesting activity – particularly workers on mechanized boats, and the fishermen using non-mechanized craft in the coastal waters. It is highly risky for fishermen to put out to sea while it rains heavily and when cyclonic or windy weather prevails. It is a fact that often, after they put out and venture into the distant zones when it is sunny and calm, they suddenly encounter stormy weather and rough sea. Many of them do not have the equipment necessary to monitor the weather broadcasts and warnings while at sea. They are then tossed about without any certainty of getting their crafts or catamarans back to the shores for many days. They ride the rough waves, sometimes without food and drinking water, while their wives and other

members of the family, and sometimes the whole fishing village, wait with baited breath, not knowing whether the breadwinner will return alive. It is only those who have experienced or witnessed these traumatic scenes can realize the gravity of the risks. The scenes can only be compared to the silence in a mineworkers' colony when a major accident takes place.

Social security and welfare measures: Social security and welfare measures are of two distinct types: (a) those that have evolved from traditional community caring and sharing systems and (b) those that are instituted as part of the organized obligations towards workers on the part of employers and the state.

The community measures are restricted to persons who belong to traditional fisher folk communities. The first charge on fish, landed in a traditional fishing village, is claimed by the physically handicapped, widows, orphans and persons who perform common services for the community. There is evidence to show that this can amount to 3 to 5 % of the harvest. Another form of social security within the community is the prevalence of a system of interest-free consumption loans from those who have a good harvest on a particular day to those who don't. Given that good and bad harvests (both daily occurrences among fishermen in the same village) are fairly evenly distributed, this system of giving hand loans is a very well-knit but informal reciprocal social insurance against hunger.

Of the organized forms of social security and welfare measures, it is the role of the state that is most important. Here, the Government of Kerala has measures to cover accident, risk to life and equipment and provide educational scholarships for the children of all fish workers; grants and subsidies for housing; relief measures during the monsoon season and so on. One may say that most of the benefits conferred by the state accrue to the workers (and their dependents) who come from traditional fishing communities.

The level of social security and welfare measures provided by employers – owners of mechanized boats, peeling sheds, and processing firms – leaves much to be desired. They keep these to the barest minimum and grant them only when it becomes inevitable.

Bangle industry of Firozabad: The glass bangle industry of Firozabad in Uttar Pradesh is a technically backward industry, employing obsolete technology, involving primitive glass melting techniques. The working conditions in most of the units in the industry are sub-human. The industry employs 1,30,000 persons.

A large number of children are working in this industry. Estimates vary from 5000 to over 1,00,000. A study by the Planning Commission in 1992 estimated the factory level child workers in the glass industry as 30,000 and those at household level at two and a half times this number ie 75,000 or more. The 1991 census enumerated 8639 children (below 14 years) as main and marginal workers in Firozabad district. As in other industries with a concentration of child workers, the glass bangle industry in Firozabad also exploits the Exemption of Family Labour Act (1986), and resorts increasingly to sub-contracting forms of production.

The bangle industry as it is operated now poses serious health hazards to workers. Temperatures inside the factory are extremely high, and very often cause burn

injuries. Coal is mostly used as fuel in the furnaces and, therefore, work environment in the factories is highly polluted with heat, chemical fumes and coal dust, leading to respiratory disorders of various forms including tuberculosis.

Generally, payment to the workers is made on a piece-rate basis. The labour employed is mainly on a daily wage basis. As a result, they do not get any kind of protection or social security. This results in mass exploitation. The payment for work at the households is extremely low. For this reason, children have to pool in their labour to maximize the household earnings. No security and safety measures are available to workers in this industry, especially in household and unregistered factories. In each household, the traditional furnaces may be seen with a large number of children working on them. They are employed in large numbers in backbreaking processes, which involve colouring, joining the cut ends and leveling them with each other, and grooving the bangles. Children are also sometimes employed in *pakai bhattis*. It is shocking to learn that child labour can be seen carrying melted glass on 7 feet long rods from the furnaces at temperatures as high as 16000° C.

It is necessary to make workers aware of the need to observe safety provisions in these dangerous employments and processes. It is equally necessary to ensure that social security measures are extended to this industry.

While the larger factories do not employ children on the ground that the technology and equipment do not suit their height and strength, the increasing practice of sub-contracting of jobs of molding, polishing, and electroplating leaves scope for the free use of cheap child labour. Children are assigned hazardous jobs such as rotating the furnace wheel which fans the furnaces; heating the ingots on top of the furnaces, and hammering them into small pieces in the molding process. Children work at applying chemicals on the ware to be polished and keeping it in acid before polishing. They are employed to tighten the ware with wires before electroplating. They also carry the load of the finished goods, and work as helpers to the welders, who work for more than 10 hours a day.

According to the district industries centre there are about 3000 units registered as small-scale units. There are an equal number of units which are unregistered and hence do not come under the ambit of the Factories Act, 1948. Therefore, the workers have no right for any entitlements like ESI, provident fund, leave etc.

Carpet workers: It is estimated that the carpet industry has over 3 lakh looms and provides employment for nearly 50 lakh weavers. The hand-knotted woolen carpet has a share of more than 15% in handicraft export, and also enjoys the position of being first in the total export of handicraft items. Traders have traditionally dominated the Indian carpet industry without much regard to the balanced growth and development of production and export.

The labour force required for the carpet industry is not only local. A large number of labourers required for different activities in manufacturing carpets migrate from nearby states and regions, particularly Orissa, Bihar and Madhya Pradesh. These labourers come either single or with their families. It has been observed that the living conditions of the labourers are deplorable.

Carpet weaving is not a full-time employment for everyone involved in it. There are categories of weavers right from full-time weavers to part-time weavers and casual weavers. Mostly, the landless weavers have no other means of production system and income and are involved as full-time weavers. They even work up to late night depending on living conditions. The carpet industry requires labours for different activities such as weaving, embossing, washing, clipping, dying etc.

Street vendors: Street vendors and hawkers are the most visible and active category of the workforce in the informal sector. Most of them come from impoverished rural families. Street vending absorbs millions of those who come to cities as economic refugees from villages because they can enter this occupation with a small amount of capital. Not only do they create employment for themselves through their entrepreneurial skills but they also generate upstream employment in agriculture as well as small-scale industry. They are the main distribution channel for a large variety of products of daily consumption – fruits, vegetables, readymade garments, stationery, newspapers, and magazines. Their elimination from urban markets would lead to a severe crisis for fruit and vegetable farmers as well as small-scale industries which cannot afford to retail their products through expensive distribution networks in the formal sector. Ordinary consumers, who do not travel to big towns or department stores, will also find it difficult to get their basic necessities at their doorsteps. Hawkers provide a low cost, decentralized and highly efficient system of distribution covering an incredible variety of products at prices far below those prevailing in established markets. Middle class people buy a large proportion of their daily consumption needs from street vendors, whereas for the poor hawkers are the only affordable source for items of daily consumption. Thus, they are a vital link between consumers and producers, and make a valuable contribution to the economy

The activities of hawkers and street vendors are comprehensive and ingenious. There are hawkers in Delhi who collect dal and spices which spill on the road during transportation, clean them and sell them to the poorer sections of the population. There are hawkers in Chennai who have set up a whole market for imported electronic consumer goods. In Mumbai's Fashion Street or on the pavements of Delhi's Sarojini Nagar, one can find the best of readymade garments at prices which are incredibly low. A large section of population in all cities is dependent on vendors and hawkers for their meals and snacks. *Lariwalas* provide food and snacks in the major cities of Gujarat. Traffic intersections have been virtually converted into catering joints by the hawkers.

Hawkers and vendors of various cities have fought long-drawn battles, both in the streets and through the courts to assert their right to an honest and dignified livelihood. The Supreme Court itself has upheld this right through numerous judgments, but there has been little change at ground level. In 1985, the Supreme Court, in the *Bombay Hawkers Unions vs Bombay Municipal Corporation* case, directed that each city should formulate clear-cut schemes earmarking special hawking zones after which it could declare areas as no-hawking zones. This was followed by a landmark judgment in 1989 in the *Sodan Singh vs NDMC* case. It

held that "Street trading is an age-old vocation adopted by human beings to earn a living and comes within the protection guaranteed under Article 19 (1) (g) of the Indian Constitution, which guarantees the "right to earn a living as a fundamental right." Therefore, city administrations were directed to facilitate hawkers in acquiring a legal status.

Laws relating to street vending are varied. With the exception of Kolkata, most municipalities have provisions for giving licences for hawking. Kolkata not only considers street vending an illegal activity, but its law provides very stringent punishment for hawkers: hawking is a cognizable and non-bailable offence there.

A typical vendor starts his day early in the morning with the day's purchase. The market place, his residence and the place from where he buys his goods are invariably far apart. Bringing large sacks of vegetables and fruits and loading them in a cart is a tedious job. Arranging, cleaning, sorting, weighing them and dealing with customers are difficult tasks.

In fact, most countries in the developing world are facing problems in identifying the role of vendors and providing a framework that enables them to make their contribution to the economy, employment generation and the services sector. This is evident by the declaration adopted at the International Conference on Vendors organized at the initiative of SEWA and other similar organizations at Bellagio in 1995. The Bellagio International Declaration on Street Vendors on November 23, 1995 held:

- a) that in the fast growing urban sector there is a proliferation of poor hawkers and vendors, including those who are children;*
- b) that because of poverty, unemployment and forced migration and immigration, despite the useful service they render to society, they are looked upon as a hindrance to the planned development of cities by the elite urbanites and the town planners alike;*
- c) that hawkers and vendors are subjected to constant mental and physical torture by the local officials and are harassed in many other ways which at times lead to a riotous situation, loss of property rights, or monetary loss;*
- d) that there is hardly any public policy consistent with the needs of street vendors throughout the world.*

The declaration urged upon the governments to form a national policy for hawkers and vendors by making them a part of the broader structural policies aimed at improving their standards of living, by having regard to the following:

- a) Giving vendors legal status by issuing licences, enacting laws and providing appropriate hawking zones in urban plans.*
- b) Providing legal access to the use of appropriate and available space in urban areas.*
- c) Protecting and expanding vendors' existing livelihood.*
- d) Making street vendors a special component of the plans for urban development by treating them as an integral part of the urban distribution system.*

- e) *Issuing guidelines for supportive services at local levels.*
- f) *Enforcing regulations and promoting self-governance.*
- g) *Setting up appropriate, participative, non-formal mechanisms with representation by street vendors and hawkers, NGOs, local authorities, the police and others.*
- h) *Providing street vendors with meaningful access to credit and financial services*
- i) *Providing street vendors with relief measures in situations of disasters and natural calamities*
- j) *Taking measures for promoting a better future for child vendors and persons with disabilities.*

Part III

In India, way back in 1952, Parliament enacted Employees' Provident Funds & Miscellaneous Provisions Act, 1952. This was the first ever effort made by legislatures for providing a lump sum for an employee on retirement. It was done with a view to enabling the retiree to invest the amount so as to have a monthly income to sustain life after retirement. Thereafter, in 1971 a scheme, namely, Employees' Family Pension Scheme, 1971 was framed under the Act. The scheme provided monthly pension for the widows/widowers of the employees who died while in service. However, there was no monthly pension under this scheme for the superannuating employees. Subsequently, a thought that the income from the Provident Fund alone was not enough for the retired employees to sustain a reasonable standard life emerged, which gave rise to the enactment of Payment of Gratuity Act, 1972. The Act provided relief for the retired employees in addition to the lumpsum provident fund.

Then the Employee's Deposit Linked Insurance Scheme came in 1976. The scheme was framed under the Employees' Provident Fund & Miscellaneous Provisions Act, 1952. The purpose of this scheme was to further safeguard the well-being and sustenance of life of the members of the employee's family in the event of death at an early age as the brief service rendered by the employee before death would not provide a sufficient amount by way of Provident Fund and may not entitle adequate benefit under the Payment of Gratuity Act for the care of the members of the deceased family.

In 1995, a new Pension Scheme was framed under the EPF & MP Act, 1952. This scheme was in fact a full-fledged pension scheme referred to as Employees Pension Scheme, 1995. The scheme provided a monthly pension not only for the retiree, but also for the members of his family in the event of his death before retirement. The scheme envisages a monthly pension to the widow, two children at a time up to the age of 25 years, handicapped and disabled children and life pension to the mentally retarded child if any.

But all of these schemes are available to the employees in the organized sector only. As of now about four crores of employees employed in the organized sector are covered for the benefits available under these social security Acts and the social

welfare schemes framed thereunder from time to time. However, the vast majority of the Indian workers employed in the unorganized sector, estimated to be over 37 crores (93%) in number, are still deprived of the benefits of these Acts and schemes owing to the reason that the Acts and schemes are not applicable to them for want of the eligibility conditions laid down therein.

As stated earlier, the employees in the unorganized sector are not polarized in the urban area alone. They are spread all over the length and breadth of our country and employed in varied occupations with varying salaries. There are variations in salary even within the same employment varying from employer to employer including the self-employed category.

There is, therefore, utmost and urgent need for the introduction of a welfare scheme covering this category of workers in view of the facts and circumstances narrated above. The feeling that the field is not adequate for the introduction of such a scheme for the reason that it cannot be managed manually does of course persist, and may be a hindrance to reckon with by the government. However, the progress that information technology has made so far strengthens the very thought of making and running of a social security scheme caring for the uncared as far as feasible and possible.

And even if the noble cause of extending the social security benefits to the working force of the unorganized sector poses a challenge, it is worthwhile to accept the challenge wholeheartedly, with a smile and with the strength, vigour and might that we in the public and private sector joint venture, NGOs and as individual citizens possess. Let us all employers, employees, government functionaries, legislatures, judicial officers and academicians join hands together to contribute to and emphasize this cause for our brothers engaged in the unorganized sector and make way for them to have the basic and most needed social protection by way of framing new Acts or extending the existing Acts. This can be done and made possible because there are a number of countries round the world which are already providing a social security scheme in some form or other for their workers.

This fact is illustrated in the table below:

Types of Social Security Schemes in Select Countries

Schemes → Countries ↓	Work Injury	Sickness, Medical Care	Maternity	Old Age, Invalidity Survivor	PF	Unemploy- ment	Family allowances
Australia	✓	✓	X	✓	X	✓	✓
China	✓	✓	✓	✓	X	✓	X
India	✓	✓	✓	✓	✓	X	X
Indonesia	✓	✓	✓	X	✓	✓	X
Iran	✓	✓	✓	✓	X	✓	✓
Iraq	✓	✓	✓	✓	X	X	X
Japan	✓	✓	✓	✓	X	✓	✓
Malaysia	✓	✓	X	X	✓	X	X
Pakistan	✓	X	✓	✓	X	X	X
Singapore	✓	✓	✓	X	✓	X	X

Source: Parduman Singh, *Social Security in Asia and Pacific: A Comparative Study*, Friedrich Ebert Stiftung, New Delhi, 1998, pp. 4-7.

Note: ✓ indicates presence and x absence of the scheme.

The information tabulated above reveals that there are many countries where the social security scheme is an essential feature.

Further, there are several other countries that have brought their workers under the purview of social security schemes irrespective of the strength of the workers employed in a particular profession or industry. Still there are many other countries that have a social security scheme even for the individual worker, not to speak of a group of workers, small or big, and whether organized or not. This is because every worker needs social security particularly in old age or in the evening of his/her life or on superannuating so as to sustain life afterwards. This fact has been depicted in the following table.

Countries & Minimum Eligibility Strength of Employees for Social Security Benefits

Name of the Country	Employment Strength
Iraq	05
Jordan	05
Malaysia	01
Pakistan	10
Saudi Arabia	10
South Korea	05
Singapore	01
Taiwan	02

Source: Praduman Singh, *Social Security in Asia and Pacific: A Comparative Study*, Friedrich Ebert Stiftung, New Delhi, pp. 4-7.

Studies made by various groups in our country reveal that though there are a good number of laws for the welfare and well-being of the workers employed in the organized sector, yet there is none for those employed in the unorganized sector.

The workforce in the unorganized sector is a victim of vulnerability due to numerous factors and particularly so because they are deprived of the benefits of social security and welfare schemes as available to the organized sectors' workers. The casual workers continue to be exploited by their employers as there is neither any trade union nor any institutional machinery to look after their interest. They do not have adequate bargaining power and continue to be unprotected and uncared for.

Is it not, therefore, desirable, as well as necessary to design such a scheme as will provide medical benefits for a worker and the members of his/her family during his/her working life, payment on accidental death, payment on permanent disablement and payment of a monthly pension to him/her on his/her superannuating and his/her dependent widow/widower after his/her death?

The Employees Provident Funds & Miscellaneous Provisions Act, 1952 and the schemes framed thereunder can be amended and modified to cater to the social security needs of the unorganized sector employees. Accordingly, the list of classes of industries, eligibility conditions for workers as laid down in the existing Act and schemes must be abolished as it is the cause of dispute whenever there is a minor difference regarding the activity of an industry as given in the list. For instance, quarrying & mine, software & hardware, computer & electronics have narrow differences. While there are a number of countries where the minimum size of establishment to be eligible for social security schemes is as low as one, ESIC covers establishments with a size of 10 or more and the EPFO covers establishments with a size of 20 or more. An expert committee recommended "the minimum number of employees in an establishment to be eligible for provident funds should be lowered from 20 to 10 and eventually to 5".

The paper proposes that all establishments irrespective of their activities and size should be brought under the purview of the existing Act, and the provisions should be made applicable from day one of their coming into existence. The wages and salary level of the employees and the qualifying service, if any, for the benefit must also be abolished outright to increase the number of beneficiaries. The unorganized and self-employed workers who are still uncovered may be brought under the purview of the Act by suitably amending it because the workers in these segments are in greater need of social security protection than those in the organized sector. It is, therefore, strongly recommended that an act be enacted for the unorganized sector with a view to extending social security benefits to the deprived and the uncared for.

Pursuant to the 2nd Labour Commission's report, the central government is seized with the problem of formulating suitable welfare schemes for different sections of the unorganized sector workers relating to life and disability cover, health benefits, old age protection etc and that is why it brought a bill known as the **Unorganized Sector Workers Social Security Bill, 2007 (USWSS Bill, 2007)**. The success of the Bill hinges upon the effectiveness of the machinery to be created at the level of state

government. It appears that the Bill seeks to pass the buck to the state government administration, which requires a new bureaucratic system created for the reasons of variety and diversity of the segments in unorganized sectors such as agriculture workers, *beedi* workers, handloom workers, fisher workers, construction workers etc.

For obtaining social security benefits the Bill envisages registration of the workers in the unorganized sector on a prescribed form to be obtained from the district administration. It implies that at village and taluka level panchayats have no role to play and the poor worker will be subjected to hardship and harassment of the same type as is the hallmark of the present day land revenue office which may eventually turn out to be a centre of patronage for the dispensation of legitimate rights.

Further, the Bill is not clear with regard to the funding pattern, though it provides for different alternatives. For a scheme to be successful, the mechanism of financing (contribution of the state and the beneficiary) should be clearly laid down so that the scheme does not die a premature death owing to the paucity of funds in states like Meghalaya, Manipur, Mizoram, Assam, J &K, Chattisgarh and Bihar.

Part IV

Conclusion: In view of the above it is suggested that for any scheme to be meaningful in providing social security and sustainable over a period of time it is desirable that the central government, the state government and the beneficiary should contribute to the scheme. It is proposed that they should contribute in ratios 1:2:2:1 respectively and the money so collected be kept in an insurance fund which provides health cover and later on becomes a source of income for the subscriber to the scheme once s/he is out of employment /self-employment. The benefits of the scheme should be administered through the postal department because of its wider network and reach. Further the support of NGOs may be enlisted on the lines of micro finance scheme to mobilize the contribution of the beneficiary of the scheme. This will slowly but surely ensure a metamorphosis in the unorganized sector, which eventually may transform into a better civil society and clientele effect.

Resference

- Ahmad, E. (1991). "Social Security and the Poor: Choices for Developing Countries". *World Bank Research Observer* 6 (1): 105-127.
- Ahmad, E. Drèze, J. J Hills and A. K. Sen (1991). *Social Security in Developing Countries*. Clarendon Press, Oxford.
- Alesina, A, S Özler, N Roubini and IP Swage (1992). "Political Instability and Economic Growth". National Bureau of Economic Research Working Paper no 4486.
- Burgess, R and N. Stern (1991). *Social Security in Developing Countries: What, Why, Who, and How?*
- Dev, S. M. (1996). "Social Security for Indian Workers: Performance and Issues". *Indian Journal of Labour Economics* 39 (4): 883-914.
- Dollar, D and A. Kraay (2000). *Growth Is Good for the Poor*. Development Research Group, World Bank: Washington, D.C.

- Dreze, J.P. (1988) "Social Security in India", Paper presented at a Workshop on Social Security in Developing Countries, London School of Economics, July 1988.
- Drèze, J and A K. Sen (1991). "Public Action for Social Security: Foundations and Strategy. In *Social Security in Developing Countries*, E Ahmad, JJ Drèze, Hills and A K Sen (eds.). Clarendon Press, Oxford.
- Guhan, S. (1992). "Social Security Initiatives in Tamilnadu 1989". In *Themes in Development*, Subramanian (ed.). Oxford University Press, Oxford.
- Guhan, S. (1994). "Social Security Options for Developing Countries". *International Labour Review* 133 (1): 35-54.
- Hasan, H.N. (1972). *Social Security System in India*, S. Chand and Co., New Delhi.
- Jhabvala, R. (1998). "Social Security for the Unorganised Sector". *Economic and Political Weekly* 30: L7-L11.
- Mehta, M.M. (1951). *Economics of Social Security*, Universal Book Company, Allahbad.
- Meesa-Lago Carmelo (1978), *Social Security in Latin America*, Pittsburgh Press, Pittsburgh.
- Norton A, T Conway, & M. Foster, (2001). "Social Protection Concepts and Approaches: Implications for Policy and Practice in International Development". ODI Working Paper no. 143. Overseas Development Institute, London.
- Otting, A. (1993). "International Labour Standards: A Framework for Social Security". *International Labour Review* 132 (2): 163-171.
- Platteau, J. (1991). "Traditional Systems of Social Security and Hunger Insurance: Past Achievements and Modern Challenges". In *Social Security in Developing Countries*, Ahmad, E. J Drèze, J Hills and A K Sen (eds.). Clarendon Press, Oxford.
- Puffert, D.J (1988) "Social Security Finance in Developing countries", Policy Planning and Research Working Paper no.36 World bank, Washington DC.
- Schmidt S. (1995). "Social Security in Developing Countries: Basic Tenets and Fields of State Intervention". *International Social Work* 38: 7-26.
- Wadhawan, S.K. (1987). *Social Security for Workers in the Informal Sector in India*, ILO, Geneva.

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