

The presence of ever-expanding unorganized sectors is a key feature of the Indian economy. The prevalence of informal sector has been one of the most prominent features of India's labor market, with the sector accounting for over half of the country's GDP. More than 90% of the workforce is believed to be employed in the unorganized sector, which accounts for roughly 50% of the country's Gross Domestic Product (GDP)[1]. Despite their significant contribution to the Indian economy, workers in this industry remain a socially neglected group. It goes without saying that the vast majority of them live in poverty and are unable to meet their fundamental needs. Moreover, exploitation, mistreatment, and gender discrimination are some of the major issues they encounter on a daily basis. In fact, the government of India has passed a number of laws, but they are largely aimed for the formal sector. This paper tries to highlight the multifaced problems faced by the unorganized workers and gives a review on Unorganized Worker's Social Security Act, 2008[2], Labor codes on Social Security 2020[3], and on the Government decision for creation of a national database for unorganized workers.

An Analysis on the Problems faced by Unorganized Sector

The unorganized labor is critical to the Indian economy. According to the National Commission for Entrepreneurship in the Unorganized Sector's 2008 study, India's unorganized workforce accounts for 92 percent of the country's total workforce of 457 million people in 2004-2005[4]. According to the National Sample Survey Organization (NSSO) report 2011-12, the country employed 46.5 million people, with 43.7 million working in the unorganized sector, accounting for 94% of the total workforce, and only 2.8 million working in the organized sector, accounting for only 6% of the total workforce[5]. According to the above data, the number of unorganized workers has been steadily increasing over time. The inability to generate employment opportunities in formal industries is reflected in the growing number of workers in unorganized sectors. In comparison to the period 1999-2000 to 2004-05, the National Sample Survey Organization (NSSO) 2011 report reported that there was a considerable reduction in the number of regular workers and an increase in the number of casual and unorganized workers between 2004-05 and 2009-10[6]. I have highlighted few important problems faced by the workers working in informal sector-

Incapacity to secure even minimum wages

The Supreme Court of India ruled that paying salaries below the statutory minimum wage amounted to compelled labor, which is prohibited under Article 23 of the Indian Constitution^[7], but economic coercion could cause someone to volunteer to work for less than the statutory minimum wage. In most studies of working conditions in the unorganized sector, wage levels and earnings of workers have been examined, and daily salaries below the minimum wage rate have been calculated. However, the current situation demonstrates that the Minimum Wage Act's^[8] scope and effectiveness are restricted around the globe. Casual employees in the unorganized sector are often uninsured and have the lowest wages. Nothing, not even the interplay of market forces, can determine the salaries of the vast informal sector. There is no standardized compensation structure in the various states or federal territories. This also applies to other occupations where the act's applicability prevents all employees from participating. As a result, if a state government refuses to include a single employment inside a given sector, the Minimum Wages Act will not apply to that sector's whole workforce.

No Trade Union or Labor Union Knowledge

The existence of the Trade Union and its bylaws is unknown to most people. The fundamental goal of establishing a Trade Union is to resolve any disputes that may develop between the company and the employee. A trade union is one that is currently registered under the Trade Unions Act of 1926^[9]. The following elements can be used to analyze Trade Union. Long working hours have a significant impact on the social and familial lives of workers in general, and women employees. In India's unorganized sector, long working hours that exceed labor standards are prevalent. Because there are no laws that can serve as a guideline for farm workers' working conditions, there is no fixed working hour in the agriculture industry. Workers in non-agricultural sectors such as fireworks, casinos, power plants, and so on started working at 6 a.m. And it will continue till late at night. In the loom industry, work is planned so that salaries are determined daily of 12-15 hours. No adult worker is required to work more than 48 hours per week under the Factories Act of 1948^[10], the Minimum Wage Act of 1948, and the Shops and Establishment Act of 1948^[11]. These

working-hours regulations, on the other hand, have been disregarded. There are essentially no restrictions on service hours.

Job insecurity

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

Lockdown In India: Most Affected is Unorganized Sector

Due to the pandemic, India is "likely to have entered a technical recession". Covid had an impact on the country's unorganized sector. The government has no idea how big this unorganized industry is. Workers in the informal sector have seen the largest job losses, and most of the households who have fallen into poverty because of the pandemic rely on them. Many workers, both in the formal and informal sectors, may be self-employed, but at a lower wage. According to a survey of more than 11,000 informal workers conducted by the NGO ActionAid, the pandemic hit informal workers particularly hard: more than 75% lost their jobs during the lockdown[12]. According to a world bank analysis released in April, the pandemic may have pushed as many as 12 million people into poverty in India (based on poverty figures from 2011-12)[13]. In the unorganized sector, there is not just a big but ambiguous region. The agricultural sector, which is the country's largest unorganized sector, is expected to be affected by the lockdown.

The casual workers with little education who labor for little pay are the ones who suffer the most. They work in insecure environments and are vulnerable to layoffs. Casual employees are left to bear the brunt of the epidemic due to physical separation, safety precautions, and the fear of getting the disease itself. From April to May 2020, the CMIE (Centre

for Monitoring Indian Economy) predicted 112 million job losses, the majority of which will be self-employed and casual workers[14]. India has roughly 139 million migrant laborers, according to the World Economic Forum[15]. Migrants faced great hardships because of the pandemic. The majority of the migrants are part-time or daily wage laborers. Many people were unable to work due to the shutdown. According to the International Labor Organization, the epidemic would force 400 million workers into poverty[16]. The migrants were obliged to return to their villages due to their precarious position. Many migrants returned home by walking or cycling because they lacked money, food, and transportation. Physical separation was impossible due to the large number of people traveling. Over 300 migrant workers died from a variety of causes, including malnutrition, accidents, and a lack of adequate medical care[17]. As the states relaxed their lockdown limitations, an inflow of migrants arrived.

The Social Security Act and its Limitation

On December 30, 2008, the Indian Parliament passed the Unorganized Workers Social Security Act, 2008. The Unorganized Workers' Social Security Act of 2008 was passed by the Indian Parliament to provide the social security and welfare of unorganized workers (meaning home-based workers, self-employed workers, or daily-wage workers). On December 30, 2008, the President of India gave his approval to this measure[18]. This legislation intends to provide unorganized workers with social security and welfare. Apart from the formation of national and state-level boards, the act makes no mention of unorganized workers' protection. The act does not mention a separate bill for agricultural employees or agricultural worker initiatives. This act only applies to a limited portion of the unorganized sector. There is no provision in the act that mentions punishing employers who break the law or bureaucrats who fail to register any unorganized worker under the schemes. The problem of unorganized women employees is not addressed in the law. Their issues have been completely overlooked.

The New Labor Codes Means Nothing to Unorganized Workers

Several laws were passed during the COVID-19 2020 period, both at the state and federal levels, that harmed centuries-old labor rights. Taking advantage of the unprecedented circumstances produced by the

pandemic, numerous state governments rushed, and perhaps unwisely, approved government decrees increasing the maximum number of hours worked per day from eight to twelve, and the maximum number of hours worked per week from 48 to 60. The judges in Uttar Pradesh and Gujarat overturned them due to their illegality. Some states, on the other hand, ventured to go where angels fear to tread by enacting significant amendments to major labor laws such as the Factories Act of 1948^[19] and the Industrial Disputes Act of 1947^[20], among others.

At this time Government for the first time in its history, with millions of unemployed informal workers, states relaxed labor laws, and parliament has passed three labor codes: the Industrial Relations Code (IRC), the Occupational Safety and Health and Working Conditions Code (OSHWCC), and the Social Security Code (SSC), which could arguably spur job creation^[21]. These labor codes are ostensibly intended to modernize and simplify current labor laws. In the year 2019, a wage code was passed. The new labor codes combine 29 central labor regulations into four codes that the Ministry of Labor and Employment calls a “game changer.” Employers will be able to get more hours of work, hire and fire more quickly, reduce their social security obligations, and use flexible employment choices, while employees will find it harder to strike legally. However, they fail to address issues such as worker safety and comprehensive social security for unorganized workers. As corporations replace permanent workers with fixed-term workers [employed for a certain period of time with equal benefits as permanent workers], the labor rules are expected to weaken overall job security. Wage rates for minimum wage have yet to be updated based on new criteria. It is impossible to provide social security for gig and platform economy workers. It is impossible to establish a comprehensive definition of migrant workers that includes both voluntary and contracted migrant labor. The “implementing authorities” are understandably perplexed as to how the new Codes’ rules should be written. The government’s neo-unilateralism is reflected in the fact that neither the Centre nor the state governments have sought technical support from the International Labor Organization (ILO). Employers and employees are facing an unclear period during which neither old labor rules nor new Codes are practically applicable. This is possibly the first time in India’s legislative history that social partners and even administering authorities are perplexed and uncertain. In addition, the proposed rules ignore provisions of ILO Conventions 87 and 98. They exclude unions in the unorganized sector, where there may be no such thing as an

“establishment” as defined under these rules, such as agricultural laborers, domestic employees, and scheme workers. Even trade unions, such as AITUC and TUCI, submitted separate statements claiming that the proposed revisions do not reflect current workplace issues and will impede workers’ rights to form unions and bargain with employers and governments.

The Union Budget 2021 did not bring much relief to the millions of unemployed people. It was merely a reiteration of the labor regulations’ ill-formed clauses. Throughout April 2021, the high-frequency unemployment rates produced by the Centre for Monitoring Indian Economy (CMIE) were higher than 6.5 percent[22]. The lack of a macro-level unemployment assistance/insurance plan, particularly during COVID-19’s high unemployment periods, is quite concerning. The government has maintained the stringent requirements attached to the unemployment insurance program for workers enrolled in the ESI program. Even if unemployment aid and insurance are included in the definition of social security, the SSC does not provide for them. The MNREGS frequently serves as a proxied unemployment assistance program, and so, when unemployment rates rise, so does demand for work under the scheme, as was the case in April 2021, when demand for jobs under the system jumped by 89 percent. Given this gloomy reality, the fact that the current fiscal year’s financial allocation for this program is 34% lower than the revised amount for 2020-21 is concerning[23].

Labor Market governance

The administration of labor laws and the collecting of labor data are the two main parts of labor market governance. COVID-19’s first year has brought the entire lack of labor market control to life in such a dramatic and tragic way. There was almost no documentation of inter-state migratory labor and what happened to them during the pandemic. The compulsory smart registration card under the Unorganized Workers’ Social Security Act, 2008 was not given to the unorganized workers (UNSSA).

Under the situation of this deadly epidemic the Government for the first time decided to create a national database for migrant worker[24]. The construction of a national database for the unorganized sector has been approved by the Finance Ministry. It will be the first-ever nationwide

migrant labor database. The goal of building a national database is to provide migrant workers with a proper platform. It will also make it easier for the government to undertake unorganized sector programs. The National Database of Unorganized Workers, according to the Ministry of Labor and Employment, would keep track of workers using their 12-digit Aadhaar numbers. A database of all workers will make it easier for the government to establish social security plans, provide jobs, and provide other advantages to unorganized people. It can also assist in tracking worker movement in instances like as COVID-19.

Absence of Any Dialogue

Despite the government's ratification of the ILO Convention, C.144^[25], Tripartite Consultation (International Labor Standards) Convention, 1976, plenty has been said and written about India's lack of and disrespect for social dialogue. Governments must recognize that without the assistance of trade unions and other workers' organizations, concrete and effective relief measures cannot be drafted and delivered. As a result, the government must immediately begin consultations with trade unions, not only to rectify the flawed labor rules, but also to develop policies and relief measures to combat the more dangerous COVID-19 this year.

Trade unions and workers' organizations can assist in the registration of various types of informal workers, which would be a huge step forward for Indian workers. There is also a need for a federal discussion and the resuscitation of the Labor Ministers' Conference, which has a long history. This is necessary in order to construct coordinated and non-duplicative actions, as well as to allow state governments to define labor code provisions. What prevents the democratic government of India from contacting the ILO when framing and amending its labor laws is difficult to comprehend. The ILO has expertise that, if utilized, would only help to improve lawmaking and labor market regulation. Its failure to do so must be traced to its unholy union with "neo-unilateralism."

Suggestion and Conclusion

Despite their significant contribution to the Indian economy, it is commonly acknowledged that unorganized laborers are the most vulnerable and insecure members of society. Unorganized workers have

expanded at an alarming rate, but their fundamental challenges have remained unaddressed. Despite the fact that the Indian government has established dozens of laws aimed at securing social security for unorganized workers, the laws have failed to achieve the desired results. The government has implemented a number of social security plans, but they have failed to defend the interests and welfare of unorganized workers. Although the Unorganized Workers' Social Security Act of 2008 specified ten social security plans for unorganized workers, the Act only referenced some of the scheme's rules and did not impose any legal obligations on the government or companies. Furthermore, the majority of workers are unaware of their rights and government support programs. In some circumstances, people are aware of the schemes but are unsure about how and where to contact them. As a result, all stakeholders, including the government, the National Social Security Board, NGOs, and others, should work together to register India as a welfare state in the real sense of the term. To achieve true progress, government rules safeguarding these employees should be aggressively enforced, and those who exploit them should be harshly penalized. There is a pressing need for things to be simplified and for various authority to be avoided. In addition, laws should explicitly establish a path for the smooth integration of existing state-run social security systems with the new ecosystem envisioned in the Code. To create a "job-rich recovery," a clear focus on and stronger policies for labor-intensive sectors are required. In India, the story of jobless growth has persisted for a long time, indicating that growth alone is insufficient to produce jobs. Given how the pandemic highlighted employees' vulnerability, the social security code should have been revised to include a universal social protection statute. It is necessary to amend labor codes in order to preserve and improve existing labor rights.