



WOMEN WORKERS IN THE UNORGANISED SECTOR: A HUMAN RIGHT PERSPECTIVE

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Abstract

Human rights are recognized as inalienable rights to be realized by all human beings. Therefore it is necessary to understand how the unorganized workers generally, and women workers in particular, who are regarded as most vulnerable section of India's human resources, realize their human rights. Unorganised Sectors in India are contributing immensely towards economic growth, however the same is not recognised due to lack of statistical information and lack of proper mechanisms to collect the same. Equally a huge number of people are depended on workers working in unorganised sectors, but the same is also not recognised. The ILO report on "More and Better Job for Women — An Action Guide" states that more than 45% women all over the world in the age group of 15 to 64 are contributing to the economy in a significant way'. The unorganized sector is too vast to remain within the confines of any conceptual definition. Hence, descriptive means are used to identify the unorganized sector. Its main feature can be identified through the sector and process where unorganized labour is used. Despite existence of labour laws, the workers in this sector do not get social security and other benefits for various reasons and there is hardly any trade union or constitutional mechanism to fight for them. In this paper an attempt has been made to study the human rights of women workers of the unorganized sector.

Key words: Human Rights, Women and Unorganized Sector



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Introduction

In India, almost 94% of total women workers are engaged in informal sector, of which about 20% work in the urban centres. Majority of women workers in informal sector come from those sections of the society which need income at any cost. Nearly 50 per cent of these women workers are sole supporters of their families. Another startling fact is that out of all women workers a mere 7.5% are availing the membership of authentic registered trade unions.

Yet another fact to cause concern is that women have to work, unpaid, even outside home, for some 5-8 hours to help their other family members. This fact has to be considered alongside the fact that an average woman has to work at home for some 7- 8 hours doing household chores including upbringing the children. Most of the women workers lack proper training. They have very few options to avail as far as gainful jobs are concerned. The quiet contributors to the effortless movement of the social carriage, the women workers engaged in informal sector are poor, perhaps poorest amongst poor, uneducated and weak. Various studies by Papola (1982, 92)[8], clearly and emphatically show another amazing fact that, the urban labour market discriminates against women much more than the rural labour market. This discrimination results in decline in the participation of women in economic activities.

Nature of jobs/ works in formal & informal economic sectors:

Formal sectors represent all jobs with specific working hours and regular wages and the worker's job is assured. The workers of organized / formal sectors are employed by the government, state or private sector enterprises. It is a licensed organization and is liable to pay taxes. It includes large-scale operations such as banks and other corporations.

On the other hand the informal or unorganized sectors are ones where the employees or the workers do not have regular working hours and wages and are exempted from taxes. It is mainly concerned with the primary production of goods and services with the primary aim of generating employment and income on a small scale. A street vendor selling his farm products on the street to generate and earn his daily bread is an example of an informal economy. Rag pickers, moneylenders, brokers are considered as a part of an informal economy. It is also described as the grey economy.

A major section of the Indian population is into the informal sectors. The main reason could be because most of the Indian section of society is economically backward people. They can hardly earn the basic bread of the day. Therefore, they prefer to work which is easily accessible to them such as farming, selling well on a street where they don't have to levy taxes.

Moreover, the employees in unorganized/ informal economic sector don't have legal and economic security like the employees of organized/ formal economic sector. Therefore, there is a greater vulnerability of the workers who are outside the reach of the labor legislation due to a worker's absence of social protection and worker's right. The vulnerability increases with women in particular.

Categories of women workers in unorganized sector

1. Rag pickers

Rag picker is a person who salvages reusable or recyclable materials thrown away by others to sell or for personal consumption. There are millions of waste pickers worldwide, predominantly in developing countries. The global population of urban dwellers is expected to double between 1987 and 2015, with 90% of this growth occurring in developing countries. The United Habitat Report found that nearly one billion people worldwide live in slums, about a third of the world's urban dwellers.

2. Domestic workers

In 1977-78, there were some 1.68 million female domestic workers, while the number of male workers was only 0.62 million. A study of domestic workers in Delhi (Neetha 2004) [8] shows that although domestic work has brought higher incomes to many women and their families it is still far from decent work being characterized by long working hours, low wages and hardly any social security. Domestic workers are more vulnerable than other kinds of workers because they are not officially classified as workers at all and are therefore not covered by laws that apply to workers. The domestic workers are engaged in particular profession, since it is the only job that they could find near their habitat. All the workers feel that the wages are not enough to satisfy their bare minimum needs but they continue to work since they could not bargain for more. In most of the cases wages are negotiable. Another interesting fact which emerged was formation of collusive arrangements among workers since in the survey wages differed on basis of locations. Wage discrimination on basis of gender could not be ascertained in this category.

3. Coolies

Women coolies basically do the job of loading/unloading of packages being received at railway stations to warehouses and from warehouses/ go downs to further distribution centres.

4. Vendors

This is the most scattered category, which includes women engaged in selling different types of commodities, like broomsticks, cane baskets, utensils, petty cosmetics, bangles, vegetables and those running roadside tea stalls, etc. Nearly 40% of total vendors are women and 30% of these women are the sole earning members in their families. The survey women included the sales girls at various showrooms and shops as also those engaged for direct sales. The job of sales girls moving from door to door is very tedious and also involves risks of personal assaults. They prefer to visit the targets during day time when they can be sure of their

safety. The mode of payment in this profession is mainly work based, which they call commission. This commission is unbelievably low and arbitrary. These workers have to contact a certain minimum number of persons per day to secure that commission. The commission varies from product to product. There are no uniform norms of commission rates; it is unusually in absolute terms and not in proportion of sales. Those working on shops earn on monthly basis with better emoluments and greater job security. All of these workers were educated till secondary or higher. All of these women reported the need to earn to support family needs such children's' education and daughters' marriage.

5. Beauticians

A large number of women are employed as beauticians. A large portion of the beauty saloons/parlours fall under the unorganized sector and are characterized by informal employment. According to a study on Human Resource and Skill Requirements in the Unorganized Sector: mapping of human resource skill gaps in India till 2022 carried out by National Skill Development Corporation, Mumbai, the demand for personal care/ body care would drive the demand for beauticians.

6. Construction labourers

The construction industry provides direct employment to at least 30 million workers in India (but recent expansions has resulted in a higher number: trade unions estimate that there were roughly 40 million migrant construction workers in India in 2008. Women work mainly as unskilled workers. The construction workers normally are migrants coming from nearby villages. They depend upon local contractors for work as well as wages. There is disparity in wages; men are paid more than women. There is no regularity or security of job. Almost all of them complained of ill-treatment and harassment at the hands of contractors. There was an indirect hint to sexual harassment in terms of language and gestures. Some of the contractors were asked about this complaint and the single most important reason cited was difference in physical strength; that female workers do less work than males during the same duration.

7. Garment workers

The garment industry is a sub sector of the textile industry and also generates many jobs for migrant workers. India's ready made garment exports increased significantly as a share of total exports (12% or Rs 254780 million in 2001-02). The women work as helpers to male/female tailors (called as masters). These workers include those involved in knitting clothes/woolens. In the case of garment workers, those working on their own were in better position as they did not have to be commanded by someone else. But majority of these workers

were working as helpers to a big draper. They receive payment on piece basis and this payment is so paltry an amount that one cannot ever dream of depending a living on it, although they have to work for five - six hours per day. The best return after one day's work can be Rs. 70-100. These workers mainly come from low middle class who need to support their family income but do not want to be bound by workers' category. They want to work from home in their free time and receive a more dignified treatment. In fact these workers could be contacted only with the help of the big tailors, boutiques and ready made garment showrooms.

Violence in the Workplace and Informal Workers

- The informal economy is heterogeneous, made up of different sectors, with different statuses in employment and different workplaces (i.e. streets, construction sites, markets, landfills, private homes, etc.). Where all informal workers are likely to experience violence due to their status in employment and lack of protection, women informal workers are more vulnerable to gender-based violence due to the intersection of their gender and insecure working conditions (ILO 2017). Sector, place of work, and gender all have an impact on the types of violence experienced by different groups of informal workers. Violence can take different forms including physical, verbal, sexual and psychological abuse. It can also include economic deprivation through low and irregular earnings or prohibited access to valuable productive resources and public spaces.

- The violence that informal workers experience can be rooted in material conflicts, manifesting especially when there is competition for scarce resources such as productive urban space or valuable recyclable material. Other workplaces, such as private homes, leave women susceptible to violence due to isolation and a lack of access to complaint and legal recourse mechanisms.

- Women are concentrated at the base of the economic pyramid as self-employed informal workers due to gender discrimination and segmentation in the labour market (Chen 2012). Violence is a way to discipline and control women's labour, both inside and outside of the home (Bhattacharya 2013). The causes for this can be rooted in strong views regarding women and men's gendered roles within the family, workplace and society. Therefore, discussions on violence in the world of work cannot be divorced from domestic violence or from violence in public spaces; all intend to suppress and control women's mobility, sexuality and access to resources.

- Poverty and deprivation do not necessarily lead to gender-based violence but can be contributing factors to the violence women informal workers experience. Low earnings, dangerous or poor working conditions and inadequate living conditions leave informal workers at a higher risk of violence in the world of work – both in private homes and in public spaces.

Human Rights Violation of women in unorganized sector

A large number of women from rural areas migrate to cities and towns all over India. Most of these women and girls are illiterate and unskilled. They work in inhuman conditions in cities as their living standard is extremely poor. It is a recognized fact that there is still no society in the world in which women workers enjoy the same opportunities as men. According to the 2001 census about 96% of women workers in India are in unorganized sector. The women unorganized sector are facing so many problems:

- **Lack of education:** Illiteracy is the biggest problem because they do not get time to educate themselves. In childhood, they have to start working early which do not allow them to go school.
- **Insufficient skill & knowledge:** Majority of female do not have proper training and skills aligned to their task. This result is excessive stress and inefficient working.
- **Exploitation of the female labour:** Female worker are more vulnerable to exploitation by employer. They can be easily threatened of their job for indecent favours.
- **Insecure job:** Absence of strong legislation controlling the unorganized sector makes the job highly insecure in this sector.
- **Non sympathetic attitude of employer:** Temporary nature of employment in this sector does not allow the bond between the employee and employer to establish and become strong.
- **Extreme work pressure:** Female are overworked, they work twice as many hours as worked by their male counterpart. In agriculture sector the condition is the worst. When measured in terms of number of tasks performed and the total time spent, it is greater than men as per one study in Himalayas which found that on a one-hectare farm, a pair of bullocks' works 1064 hours, a man 1212 hours and a woman 3485 hours in a year.

- **Irregular wages payment:** There is lack of controlled processes in unorganized sector which results in to untimely payment of wages to the workers. When it comes to payment to female, it is even worst.
- **Wage discrimination:** Female do not get similar payment to the male for same work.
- **Seasonal employment:** Many of the unorganized sector industries are seasonal. These industries includes fruits processing, pickle making, agricultural sector, construction sector etc. They have to fetch another employment when there is no work during off season.
- **Physical problems:** The working conditions are not healthy. Work place is not ergonomically designed. This results into workers facing fatigue resulting physical problems. Female workers are mostly on such tasks where they need to remain in one position such as agriculture. This results on to saviour problems such as backache and knee-ach.

Women and Labour Laws

Women constitute a significant part of the workforce in India but they lag behind men in terms of work participation and quality of employment. According to Government sources, out of 407 million total workforce, 90 million are women workers, largely employed (about 87 %) in the agricultural sector as labourers and cultivators. In urban areas, the employment of women in the organised sector in March 2000 constituted 17.6 % of the total organised sector. The situation regarding enforcement of the provisions of this law is regularly monitored by the Central Ministry of Labour and the Central Advisory Committee. In respect of an occupational hazard concerning the safety of women at workplaces, in 1997 the Supreme Court of India announced that sexual harassment of working women amounts to violation of rights of gender equality. As a logical consequence it also amounts to violation of the right to practice any profession, occupation, and trade. The judgement also laid down the definition of sexual harassment, the preventive steps, the complaint mechanism, and the need for creating awareness of the rights of women workers.

Legislative Support For Women

India has witnessed many social changes post-independence. Today, women have come out of homes and established an identity of their own in different areas of work. Though most Indian adult women make an economic contribution in one form or another (including housework, working in family land etc.), much of their work is not documented. This is

because majority of women workforce is employed in the unorganized sector and working for family is considered as responsibility which should not be counted. The Economic survey data for 2007-08 reveals that the overall percentage share of female participation in work was comparatively low as compared to that of male. There are over 45 labour legislations from the Central Government and the number of legislations enacted by the State Governments is close to four times that of the Central Act. The government has so far passed/amended 5 women specific legislations. However, effectiveness of the laws can be seen/felt if women's are politically and socially empowered.

➤ **The Factories Act, 1948**

It is a labour welfare legislation where in measures have been laid down to be adopted for the health, safety, welfare, working hours, leave and employment of young persons and women. Exclusive provisions for women have also been incorporated in the act keeping in view their soft and tender personalities.

➤ **The Mines Act, 1952**

This Act has been enacted to amend and consolidate the law relating to the regulation of labour and safety in mines. It regulates the working conditions in mines by providing for measures required to be taken for the safety and security of workers employed therein and certain amenities for them.

➤ **Plantations Labour Act, 1951**

The Act aims at providing for the welfare of plantation labour, and to regulate the conditions of work. It applies to any land used or intended to be used for growing tea, coffee, rubber, cinchona or cardamom or any other plant which measures 5 hectares or more and in which 15 or more workers are employed on any day of the preceding 12 months.

- 1 Prohibition on the employment of any women in any plantation between 7 p.m. to 6 a.m. exempting those who are employed in any plantation as midwives and nurses.
- 2 **Sickness and Maternity Benefits** in the form of allowance in case of confinement or expected confinement and **2 Additional Breaks daily** for a woman resuming her work after delivery for nursing her child till the child is 15 months old.
- 3 Creche Facility in plantations where 15 or more women workers were employed or the number of children (below the age of 6 years) of women workers is 20 or more

➤ **The Maternity Benefit Act, 1961**

Keeping in view the need for providing maternity benefits to women workers, especially adequate provisions for leave during maternity period and the convention of the ILO,

the Maternity Benefit Act, 1961 was passed. This Act has been passed to regulate the employment of women in certain establishments for certain periods before and after child birth and to provide for maternity benefit and certain other benefits. It is not doubt a significant piece of labour legislation exclusively devoted to working women in factories, mines, plantations and establishments where in persons are employed for the exhibition of equestrian, acrobatic and other performances.

In 1948, the provisions for maternity benefit was made under the Employees State Insurance Act and in 1951 under the Plantation Labour Act. However the conditions for payment, the rate and period of benefit was not uniform under these Acts and in order to remove these disparities and to have uniform rules, the maternity Benefit Act, 1961 was passed. The maternity benefit is applicable to casual workers daily wage workers also.

Provisions for the Welfare of Women

- 1 Maternity benefit of 12 weeks as the maximum period
- 2 Various types of Cash Benefits
- 3 Various types of Non Cash Benefits/Privilege
- 4 Leave with wages in case of Miscarriage and Tubectomy Operations
- 5 Leave with wages in case of Illness Arising Out of Pregnancy
- 6 Prohibition on Employment during Certain Periods
- 7 Prohibition on Dismissal or Discharge or Variation in conditions of Service from Employment
- 8 Benefits in Case of Death of a Pregnant Employee

➤ The Minimum Wages Act, 1948

The Minimum Wages Act, 1948 sets the framework of declaring the minimum wages payable for occupations, both in formal and informal sector. This Act safeguards the interests of workers by providing fixation of minimum wages mainly focusing on unorganized sector and in specified occupations (called scheduled employments).

[1] Hours of work and overtime - The Act also regulates the working hours and enforces overtime payment for working longer hours or on holidays. If the worker has worked lesser hours not due to own fault like coming late then also minimum wages has to be paid, because the employer has failed to assign adequate work.

[2] Current Minimum Wage - With effect from October 2011 the National Floor Level Minimum Wage has been increased to Rs. 144 from Rs 125. Several states have fixed higher

Minimum wages than those prescribed by Central Government for highly skilled, skilled, unskilled and semi skilled workers engaged in Scheduled employments.

➤ **Sexual Harassment of Women at Their Work Place (Prevention) Bill, 2006**

The bill aims at providing legal protection to women at workplace against any kind of sexual harassment ranging from staring to rape. Till then, the guidelines that the Supreme Court has laid down in the case of **Vishaka vs. State of Rajasthan** are to be followed. These guidelines encompass a comprehensive definition of sexual harassment, directions for establishment of a complaint mechanism and the duty under which employers are obligated to obviate any such act.

➤ **Domestic workers and social security Act, 2010**

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

Conclusion and Recommendations

Human rights are those minimum rights which are compulsorily accessible by every individual as she is a member of human family. The constitution of India also guarantees the equality of rights of men and women. The government (Central, State and local) will be provide to all types of securities for violated women in the society and take needful action to do not violate of their rights. And all are give them to respects of women in our society by human nature to support them and encourage for freely independent living in our society.

Although the working women have been provided various benefits, concession, protection and safeguards under different labour legislations in order to provide security against various risks peculiar to their nature which are likely to occur in their lives yet their work participation is not up to mark.

The women workers do not have a choice to work, or not to work, due to dire need of income. The limited opportunities available to women are mostly low paid, low status jobs in the informal sector; jobs which do not have any possibilities of betterment, advancement of efficiency or training, to enable them to enter better jobs at a later stage. In the overall state of unemployment and lack of opportunities, women hold a secondary place to men in the race of employment. There is discrimination in wages, nature of work, availability of work, on the basis of sex. Bargaining power is mostly with the employers, so exploitation is naturally the fate of these poor workers. They come from that section of the society which must work to earn their livelihood and which is socially, economically and traditionally backward and least privileged. There is diversity in the nature of work. Some of them are construction workers,

some are domestic servants, and some others are garment workers while few are petty traders in miscellany of goods. But there is little or no variation in terms of job like wage discrimination, job insecurity, leave / holidays and other benefits. It is strongly recommended that mere framing of policies and Acts may not serve the purpose. Work has to be done at the grass root level with proper feedback system in place to ensure that policies of equal treatment for equal work are actually giving results. We must remember that by ignoring these women workers we are ignoring important contributors to national income of the country.

- Expanding employment opportunities: More direct employment generation through increased public investment and provision of public services is highly recommended along with further reservation of women in these.
- Improving the conditions of work in the informal economy: Recognition of all workers including those whose workplace is within the home, implementing minimum wages and reducing gender disparity in earnings through strengthened monitoring and regulation.
- Strengthening access to social protection, with focus on old age pensions and health, including occupational health concerns in all sectors, including those where women are concentrated and which may be relatively invisible; skill development to enable higher earnings.
- Enhancing investments in gender-sensitive infrastructure including ladies' toilets, creche facilities, public transport.
- Enabling and encouraging organising of informal women workers as a strategy for collective bargaining.
- Providing basic education to women so that they become aware about the schemes and facilities about the schemes for them.
- A trade Union should be formed among women workers.
- Adequate training should be provided to women workers.
- There should be proper guidelines for recruitment process working hours and for health hazards. 10. A supervisory body should be established to monitor the proper implemented of legislation and provision related to women workers.
- There is need of more effective poverty alleviation programme.
- Since women workers lack in skill, skill development programs should be provided to them to enhance their skill level.

- Women workers should be educated and make them aware about their rights and legislative provisions.
- It is very much essential to create awareness among women workers about the institutional support available to them to protect their rights.
- A comprehensive law is needed to protect the rights of women workers.
- Any kind of exploitation including sexual harassment of women workers is to be prevented and stringent action needs to be taken against the wrong doer.
- Mass media should be used to communicate the social message relating to women equality.
- A separate women grievance cell headed by a woman should be established in every organized sector and in case of unorganized sector women to form self-help groups for their protection.
- Necessary amendments are required to be made in labour laws.
- There should be proper regulation of unorganized sector industries, which ensure job security, healthy work environment and at least minimum wages, maternity and child care benefits.

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