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TOWARDS INCLUSIVE PROTECTION: SOCIAL SECURITY AND THE UNORGANIZED SECTOR

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ABSTRACT

The unorganized sector forms the invisible scaffolding of India's economy, employing more than 90% of the nation's labour force. Yet, this sector thrives in legal grey zones — marked by informality, irregular employment, low wages, and near-absence of social protection. Workers here are often beyond the reach of labour laws, lacking both security and recognition. Despite being essential to the functioning of urban and rural economies, their vulnerabilities remain largely ignored by mainstream policy frameworks.

This paper seeks to bring visibility to the millions who drive India's informal economy but remain outside its legal protections. It traces the socio-historical evolution of unorganized labour in India, from traditional community-based support systems to post-independence welfare strategies, exposing how these systems gradually unraveled in the face of industrialization, globalization, and urban migration. In particular, it explores the inadequacies of laws such as the Unorganized Workers' Social Security Act, 2008, and assesses recent government schemes like PMJJBY, PMSBY, and AB-PMJAY. Comparative insights are drawn from international standards, especially among OECD nations, to underscore India's lagging performance in pension coverage and healthcare expenditure. The paper also discusses bilateral Social Security Agreements (SSAs) signed by India with several nations, aimed at ensuring continuity of benefits for migrant workers.

For real change to happen, institutions need to do more than exist — they need to work for the people they're meant to protect. Helping workers move into formal employment, making sure they understand their rights, and building systems that actually reach them are crucial steps. It's only through collective, sustained effort that India can begin to offer fair and reliable protection to those who keep its economy running, often without recognition.

Keywords: Unorganized Sector; Social Security; Labour Law; Informal Employment; Welfare Legislation

INTRODUCTION

In India, the unorganized sector is made up primarily of tiny, dispersed businesses that operate outside of official authority of the government. The category includes small enterprises and services that use inefficient and low-skilled labourers. This industry is not subject to government rules or restrictions. And since the sector is not subject to government regulation, taxes are not levied. Here, jobs are generally irregular and pay little.

Yet, the sector is a source of employment for majority of the employed population. Unorganized sector workers constitute more than 90% of the total employment in the country. The total number of workers in the unorganized industry in 2019–20 was around 43.99 crores, according to the Economic Survey, 2021–2022. By July 18, 2023, there were about 28.96 crore workers enrolled on the eShram portal—a platform for enrolling, registering, gathering, and identifying all unorganised workers' necessary data.

However, even when these workers constitute majority of the workforce, it is a pity that the sector faces innumerable challenges. Employees in this industry are more likely to be unwell, have less opportunities for career advancement, have no paid time off, and are less secure in their jobs. Casual, seasonal, and dispersed work are all performed by unorganised labour; these jobs are not unionised due to their dispersed character. The many social security benefits, including pensions, gratuities, workmen's compensation, and employee state insurance, are not available to unorganised labourers. They are also denied the advantages of the employment regulation statutes at the same time. They also don't receive regular pay. Without a doubt, the majority of them fall below the poverty line and are unable to meet their basic needs.

Hence, realizing the importance of regulating the unorganized or informal sector, over the years the government has taken various steps and implemented various policies and legislations to deal with the problems the sector faces. In 2008, the 'Unorganized Workers Social Security Act' was introduced to ensure the wellbeing and social security provisions for unorganized labourers. The government further introduced various schemes such as Pradhan Mantri Shram Yogi Maan-dhan, Aam Aadmi Beema Yojna. The government has also introduced various skill development programs for workers in the unorganized sector to improve their employability. These programs aim to provide skills to workers in unorganized sector for employment in formal sector and secure employment opportunities.

2. TRENDS IN UNORGANIZED SECTOR IN INDIA

Unorganised or informal labour employment makes up the great bulk of jobs in the Indian economy. About 92% of India's labour force is unorganised, with the agricultural sector as a whole coming under the informal category. Only 25% of non-farm workers are employed in the organised sector, whilst about 80% of the labour force in the non-farm sector is informal.

The share of non-organized employment in the economy had remained relatively stable throughout time. From around 276 million out of 300 million in 1983, or 92%, to 93% in 1999–2000, was the growth in the percentage of unofficial employment. It is clear that work prospects in the organised sector have remained mostly stable, with just a little rise from 24 million in 1983 to 27.8 million in 1999–2000.

It is evident that throughout the 1980s and 1990s, the unorganised sector accounted for 99 percent of jobs in industries like agriculture, hunting, etc. The jobs in commerce, lodging, and dining establishments come next, making up 98% of this category's unorganised employment. Two more areas where the labour was rapidly becoming informal were construction and manufacturing. The percentage of unorganised employment in the construction sector rose from 82% in 1983 to 90% in 1987–1988. This percentage continued to rise in the post-liberalization era, reaching 94% in 1999–2000. The percentage of unorganised employment in the manufacturing sector rose from 80% in 1983 to 83% in 1987–1988. And in the next ten years, this percentage increased even more, reaching 84% in 1993–1994 and 85% in 1999–2000.¹

According to a 2009–10 National Sample Survey Organisation (NSSO) poll, there were 46.5 crore jobs in the nation overall, with around 2.8 crore in the organised sector and the rest 43.7 crore in the unorganised sector. In rural areas, the number of female workers involved in informal agricultural activities is higher compared to their male counterparts. And the number of males in the non-agricultural sector is higher compared to female workers. The trend continues in urban areas as there are more men in the non-agriculture sector compared to females.² Of these engaged in the unorganised sector, 24.6 crore work in the agricultural

¹ S Sakthivel and Pinaki Joddar, 'Unorganised Sector Workforce in India: Trends, Patterns and Social Security Coverage' (2006) 41(21) *Economic and Political Weekly* 2107

² India's 93%. 437 Million That Holds Up The Economy But Lacks A Voice' *IndiaSpend* (22 November 2023) <https://www.indiaspend.com/indias-93-437-million-that-holds-up-the-economy-but-lacks-a-voice/> accessed 10 April 2025

sector, around 4.4 crore in construction, and the remainder workers are employed in manufacturing and services.

3. HISTORY OF SOCIAL SECURITY FOR THE UNORGANIZED SECTOR

India has a long history of focusing on the weaker sections of the population while offering social protection and charity. Social security and assistance for the nation's poor and destitute residents were provided by the joint family system, the system of shared property resources, the framework of self-sufficient village communities, and the tradition of establishing endowments for humanitarian and religious causes. As a matter of fact, caste and religious organisations played a major role in providing the necessary assistance to the weaker members of the selected castes and groups of people. But these unofficial social security schemes eventually fell apart after industrialization and urbanisation.

In India during the Sultanate era, the concept of social security did not exist. However, throughout the Afghan- Mughal era, particularly under Sher Shah Suri, the welfare policy was the driving force behind the implementation of social security measures. The primary goal of Sher Shah Suri's (1540–45 AD) administration was to ensure the general well-being of the populace. Sher Shah Suri believed that he was his subjects' defender and guardian. Modern social security is based on the welfare notion.³

During British administration, the goal was to exclusively help government or corporate personnel; this was essentially done as a non-union tactic to encourage worker dedication and loyalty. The welfare factor only became significant and relevant during the post-independence era. Nonetheless, even after independence, the State tended to focus more on the issues facing the industrial (organised) labour force and paid less attention to rural labourers' concerns about social security issues until recently.⁴ During the Indian Constitution's development, many Directive Principles of State Policy pertaining to social security issues were included. In particular, social security was designated as the concurrent duty of the federal government and the state governments and was added to List III to Schedule VII. The Building and Construction Workers Act (1996), the Maternity Benefit Act (1961), the Payment of Gratuity

³ *History of Social Security of Unorganized Workers- With Special Reference to India*, Dr. Sujit Kar (February 3rd 2015)

⁴ Ibid

Act (1972), the Coal Mines Provident Funds and Miscellaneous Provisions Act (1948), the Minimum Wages Act (1948), the Industrial Dispute Act (1947), and the Employees State Insurance Act (1948) are just a few examples of the acts that demonstrate the attention given to organized labour in order to obtain various forms of social security and welfare benefits.

4. CHALLENGES FACED BY UNORGANIZED SECTOR WORKERS

Over 290 million, or more than 92%, of the 317 million people in employment are in the unorganised sector. These workers lack social security protection, stable employment, and sustained salaries, in contrast to those employed in the organised sector. These workers, while in employment, face various kinds of challenges.

(1) No Social Security: The premise of social security is that the government should be in charge of shielding its people from unforeseen events in life. India has passed a number of social security laws. Nevertheless, because to their power and unionism, all of these laws only apply to organised workers.

These laws rob all unorganised labourers of their advantages.⁵

(2) Poor Working Environment: The welfare of employees is impacted when hygienic services are not provided. The hygienic conditions and lack of adequate lavatory facilities are extremely dangerous in the majority of unorganised sector enterprises. There is little plumbing, toilet, and washing machine equipment at work. One may argue that these kinds of amenities are not available to industrial personnel. In addition, there are extremely subpar physical conditions, such as inadequate ventilation, lighting, and space.

(3) Health and Occupational Risks: Working conditions in the unorganised sector are the main factor having a negative impact on employees' health. Poor diet due to poor pay and continuous hard effort increases health problems and puts unorganised workers' lives at danger. Poor workers are often forced to become indebted or forget their obligation due to a lack of healthcare services. The majority of research on health issues pertaining to home care members has focused on respiratory issues brought on by tobacco smoke and physical pain from inhaling owing to the awkward posture that must be maintained throughout work hours

⁵ Varsha Goyal, 'Problems Faced by Labours in Unorganized Sector: A Comparative Study with Organized Workers' (2021) 10
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- (4) **No Trade Unionism:** Maximum numbers of informal workers do not have any knowledge about the existence and rules of labour union. The primary purpose of the Trade Union establishment is to settle the dispute that might arise between the employer and the employee. Trade Union means a trade union, registered under the Trade Unions Act, 1926 for the time being.⁶
- (5) **Job Insecurity:** Unorganized sector faces basic constraints such as casual nature of employment. For example, farm labour jobs are irregular and unconfident. They are largely unemployed and hungry due to their availability of jobs only for about three months and the remainder of the nine months. There are innumerable illustrations of losing employment in unorganized sectors because of immaterial reason. There are numerous lawful commitments have been outlined to stop the embarrassment in the occupation although the majority of those lawful conventions are connected only in organized sectors.
- (6) **No Minimum Wages:** According to surveys, about 80% of unorganised sector workers make less than 208 rupees per day, which is less than half the minimum wage set by the government for both urban and rural areas, which is 67 rupees and 49 rupees, respectively. This is especially true in isolated locations and places where employees are not members of a union or other type of organisation. Because of this, their incomes have long ago been unable to keep up with growing expenses and have been losing actual value over time.⁷

5. MEASURES TO PROTECT THE UNORGANIZED SECTOR

The First National Commission on Labour defined unorganised labour as ‘people who, due to various factors such as the nature of their industry, the sporadic nature of their employment, their ignorance and illiteracy, the small and dispersed size of their establishments, or their employers' position of power, have not been able to organise themselves in pursuit of common goals’.

India has passed a number of social security laws. There are two categories of laws that might contribute to the unorganised sector: general laws and specific laws. Both organised and unorganised workers are covered by the earlier enactments, whereas specific rules that apply

⁶ Ibid

⁷ Shubhangi Gupta, ‘Make the Move from Minimum Wages to Living Wages’ *Times of India* (11 March 2023)

to a particular type of unorganised workers are covered by the later ones.

The laws belonging to general class, mainly include legislations such as Employees Compensation Act (1923), Employees State Insurance Act (1948), Maternity Benefit Act (1961), Payment of Gratuity Act (1972) among other Acts.

There are however, special laws which have been introduced which specifically pertain to and regulate the unorganized sector. Some of these include:-

- 1) The Contract workers (Regulation & Abolition) Act of 1970 - which intends to control the use of contract workers in all enterprises with twenty or more employees and to provide for its elimination under specific conditions.
- 2) Building and other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 - An Act to provide safety, health, and welfare measures for building and other construction workers, as well as other matters incidental or connected thereto, as well as to regulate their employment and conditions of service.
- 3) Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 – An act to provide the employment of inter-State migrant workmen and to provide for their conditions of service.
- 4) Mica Mines Labour Welfare Fund Act, 1946 – A law creating a fund to support initiatives aimed at improving worker welfare in the mica mining sector.

A six-person working group on social security was established by the Economic Administration Reforms Commission in 1984. Later, National Commission on Rural work was established by the Indian government in August 1987 to look into regional and national issues relating to rural work in India. The Commission suggested life insurance, maternity benefits, disability benefits, basic health care and sickness benefits for all rural workers, as well as an old age pension when it delivered its findings in July 1991.

The Second Labour Commission was established in 1999 with the responsibility of proposing beneficiary legislation for the unorganised sector, which would safeguard their rights and provide them with social security and welfare benefits. The Second Labour Commission was then established by the Indian government in 1999, with two mandates: first, to recommend rationalising the labour laws currently in place for the organised sector and, second, to propose general legislation that would provide a minimum degree of protection for workers in the

unorganised sector.

Even though the Indian constitution has an implicit social security system, the situation of unorganised workers in the country remains far from ideal even after 50 years of adoption. As a result, the Second Labour Commission also filed a report praising the need for a national strategy to provide social security to employees in the unorganised sector. The government also introduced the "Unorganised Sector Workers' Social Security Scheme, 2004" in 50 districts as a trial programme in response to the Commission's recommendations. Three benefits were offered by the programme: an old age pension, health insurance, and accidental insurance.

In response to the Second Labour Commission's recommendations, the Unorganised Sectors Workers Bill, 2003 was created during the NDA administration to ensure social security for workers in India. Under the first UPA administration in India, another bill known as the Unorganised Sector Workers' Social Security Bill, 2005 was created.

5.1 Unorganized Workers Social Security Act

In order to benefit the unorganised sector, the legislators advocated in support of this legislation. The expansion of official social security to include the most vulnerable members of society was strongly supported. The Unorganised Sector Worker's Social Security Act, 2008 (Act No 33 of 2008) became operative on December 30, 2008, following the president's ratification. Years of advocacy by groups that support workers in the unorganised sector led to the passage of this legislation. The catchphrase "Social Security Now" had been echoing down streets and alleys in many towns between the years 2006 and 2007. The enactment of a social security law was a significant victory for the workers' movement.

The Act gave the Central Government the authority to create appropriate welfare programmes for unorganised sector workers that address issues such as (i) life and disability insurance, (ii) health and maternity benefits, (iii) old age protection, and (iv) any other benefit that the Central Government deems necessary.

Pradhan Mantri Jeevan Jyoti Yojana (PMJJBY) and Pradhan Mantri Surksha Bima Yojana (PMSBY) offer life and disability coverage. For unorganised workers, benefits under the schemes include Rs. 2 lakh for death from any cause and permanent disability, Rs. 1.0 lakh for

partial disability, and Rs. 4 lakh for death from an accident. Depending on their eligibility, annual premiums are Rs. 342/- (Rs. 330/- for PMJJBY + Rs. 12/- for PMSBY).⁸ Ayushman Bharat-Pradhan Mantri Jan Arogya Yojana (AB-PMJAY) provides insurance for health and maternity benefits based on deprivation and employment. It offers health insurance coverage for hospital stays linked to secondary and tertiary treatment up to Rs. 5.00 lakhs per family.⁹

Subsequently, a National Social Security Fund (NSSF) for workers in the unorganised sector was established as a follow-up in 2010–11, initially funding it with an amount of Rs 1,000 crore.¹⁰

The government has also taken recent steps towards improving the scenario for the unorganized workers. Several Bills were also introduced by the government in 2019 and 2020. The 2019 Labour Bills provided that platform, gig, and unorganised worker social security funds might be established by the federal government. The 2020 Bill specifies that a fund of this kind will be a mandate to be established by the national government. State governments will also have to establish and manage independent social security funds specifically for unorganised labourers. The 2019 Bill called for the creation of national and state-level bodies to oversee programmes for workers in the unorganised sector. According to the 2020 Bill, the National Social Security Board may serve as the Board for the welfare of gig workers and platform workers in addition to unorganised workers. It may also suggest and oversee programmes for these groups of workers.

6. THE INTERNATIONAL SCENARIO

Assessing the international scenario, based on the Global Pension Index, India was ranked 41st out of 44 nations in 2022, showing a slight improvement in its index value from its ranking of 40th out of 43 in 2021.¹¹ In contrast to global mandates, India has struggled to provide everyone with a basic social security cap due to the size of its unorganised industry.

⁸ Ministry of Labour, *New Measures to Protect the Interests of Unorganized Labour* (14 December 2023)

⁹ Ibid

¹⁰ Himanshu Upadhyay, 'The Missing National Social Security Funds for India's Unorganized Sector' *The Wire* <https://thewire.in/labour/national-social-security-fund-unorganised-workers> accessed 10 April 2025

¹¹ *India ranks 41st among 44 nations on Global Pension Index* (Economic Times, 13 October 2022) <https://economictimes.indiatimes.com/news/economy/indicators/slight-improvement-in-indias-position-on-global-pension-index/articleshow/94938421.cms> accessed 10 April 2025

6.1 Comparison to OECD Countries

In comparison to OECD average, India is well behind the OECD average in terms of mandated pension plans covering the population aged 15 to 65 and the labour force, which is 60.4% and 80.3%, respectively. It covers just 5.7% of the former group and 9.1% of the latter.

If we look at Health Care Expenditure, India does far worse than its OECD peers as a proportion of GDP. The government's portion of health care spending, which amounts to 5% of GDP for OECD, is even less than 1% in India. The OECD nations, on the other hand, have far greater and more equitable shares of government spending on healthcare, which is indicative of their excellent health care policies. Thus, it may be argued that the Indian government bears less responsibility than the governments of the OECD for providing health services to the elderly and retirees who cannot afford them.¹²

In several OECD nations, such as the Netherlands, Switzerland, and Australia, the financial depth—defined as the pension asset as a percentage of GDP—is greater than 100%, while it is just 5.75 percent in India. It draws attention to the fact that the pension provision systems in the OECD's member nations provide strong returns on investment. As a result, pension fund returns are high in OECD nations, and older people have comparatively better post-retirement lives.

6.2 Social Security Agreements

International social security agreements improve social security coverage for active workers and assist ensure continuity of benefit protection for those who have accumulated social security credits under one nation's system. These agreements guarantee that retirement benefits won't be lost for retirees who divided their service among multiple countries.

As of 2023, The Indian government had signed 20 social security agreements (SSAs) with 19 nations, of which 18 are presently in effect. These nations include, but are not limited to, Belgium, Germany, Switzerland, Denmark, Norway, Luxembourg, France, South Korea, the Netherlands, and Hungary. India has developed SSAs since 2008; the first SSA was enacted

¹² Rupak Kumar Jha and Bhattacharya, *Social Security System in India: An International Comparative Analysis* (MPRA Paper No 20142, 19 January 2010) <https://mpra.ub.uni-muenchen.de/20142/>

with Belgium in 2009.¹³

CONCLUSION

In conclusion, the social security of jobless people in India is a complex problem in need of complex fixes. Even if the government has launched a number of programmes and measures to deal with this problem, all jobless people still require a comprehensive and inclusive social security system that acts as a safety net. Provisions for skill development, job placement aid, and unemployment compensation should all be part of this system. The informalization of the Indian economy and the dearth of respectable employment possibilities must also be addressed. Policies that encourage formalisation and generate employment opportunities across a range of industries can help achieve this.

Moreover, it is imperative to increase consciousness regarding the significance of social security and motivate jobless individuals to utilise the existing programmes. Campaigns for public awareness and educational initiatives can accomplish this. India can progress towards a fairer and more equal society that offers jobless workers and other individuals with a safety net by tackling these issues and putting in place efficient social security policies.

¹³ *What is a Social Security Agreement* (News18, February 14, 2023) <https://www.news18.com/business/what-is-a-social-security-agreement-all-you-need-to-know-7077247.html> accessed 10 April 2025