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A glance of Unorganised Workers' Social Security Act, 2008

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An enterprise that produces or sells food, offers services of any type, or both, is considered to be operating in the unorganised sector if it is owned by an individual or a small group of self-employed workers and employs less than ten people.

"Unorganised Workers": This term refers to the following.

1. Home-based employee.
2. Self-employed individual.
3. Contract, casual, and bonded labour wage worker types of employment in the unorganised economy.

Specifically for the unorganised class, there are specific unique laws. Here are a few of them:

1. Contract Labour (Regulation & Abolition) Act, 1970
2. Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979
3. Cine-workers welfare Fund Act, 1981
4. Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Fund Act, 1976
5. Limestone and Dolomite Mines Labour Welfare Fund Act, 1972
6. Mica Mines Labour Welfare Fund Act, 1946
7. Beedi Workers welfare Fund Act 1976
8. Building and other Construction Workers (Regulation of Employment and conditions of service) Act, 1996
9. Unorganised Workers' Social Security Act, 2008

A worker in the organized sector who is not protected by any of the acts listed in schedule II of the Act is also included i.e. the Employee's Compensation Act, 1923 (3 of 1923), the Industrial Disputes Act, 1947 (14 of 1947), the Employees' State Insurance Act, 1948 (34 of 1948), the Employees Provident Funds and Miscellaneous Provision Act, 1952 (19 of 1952), the Maternity Benefit Act, 1961 (53 of 1961) and the Payment of Gratuity Act, 1972 (39 of 1972).

Complications of unorganized labor:

Employees in unorganised sectors have **fewer amenities** than those in organised sectors. Worker issues in the unorganised industry include,

- 1) Employees in the unorganised industry get low salaries.
- 2) There are no provisions for overtime, paid time off, holidays, sick leave, or other types of leave.
- 3) There is a significant degree of insecurity surrounding employment.¹
- 4) It is basically out of government control.
- 5) Of all the workers in an unorganised industry, children are the ones who are most exploited.
- 6) Finally, as there are many variables that affect the work in the unorganised sector, workers must travel about in quest of employment. The costs associated with migration provide a danger to their livelihood.
- 7) Lack of a trade union to state their demands and have no power of bargaining- The majority of unorganised employees are unaware of the existence and regulations of labour unions. Numerous unorganised sector employees, including those from unions representing agricultural, brick, hosiery, construction, fish and forest, domestic, biri roller, sex, and liquor shop workers, have joined and have been brought together under one platform.
- 8) The majority of labourers reside in unsanitary circumstances.
- 9) Women's workplace harassment problems- Emotional and sexual harassment

¹ (Ministry of labour and employment, n.d.)

10) Seasonal Employment- Employees are employed seasonally. They are only employed during a certain season and are unemployed the rest of the year. The length of the job is only 3–4 months. The Mahatma Gandhi National Rural Workers Employment Guarantee Act of 2005 in India intends to offer employment stability by ensuring at least 100 days of work for those who can do manually in the most underdeveloped parts of the nation.

How the government have divided the unorganised workers?

The government has solely divided the unorganised labour into three categories based on individuality.

a] in terms of employment, such as construction workers, waiver, fishermen, and employees of paper mill and sawmills, etc.

b] the most exploited workers are scavengers, head and shoulder loaders, and those who do a range of labour tasks.

c] Service workers including hotel bellboys, midwives, air hostesses, barbers, and masseuses.

Aside from the categories already mentioned, there are also rickshaws, handicrafts, cobblers, handloom weavers, physically disabled self-employed people, woman tailors, and craftsmen.

The defence that society provides its members against possible misfortunes that an individual has no control over is referred to as social security. It comprises of government programmes aimed at preventing financial losses brought on by old age, illness, unemployment, or death for the families of employees. Social security is crucial for emerging and impoverished nations.

Schemes for social security benefits:

Section: 3(1)-The Act's Section 3 stipulates in subsection 1 that the Union Government and State Government shall periodically develop plans for health and maternity assistance, old age protection, life and disability benefits, and any other benefit that the Central Government may decide to notify.

Section 3(4)- The state government created a number of welfare programmes for unorganised employees under section 3(4), including provident funds, employment injury benefits, housing,

accessible to children educational opportunities, old-age homes, cremation assistance, and worker skill enhancement.

Under **section 4(1)**, any scheme advised by the central government may be

- a) Wholly subsidize by the central government or
- b) Partly subsidize by the central government or partly subsidize by the state government or
- c) Partly subsidize by the central government, partly subsidize by the state government and partly subsidize through contributions collected from the beneficiaries of the scheme or the employers

Every plan announced by the central government is mandated by section 4(2) to include all necessary provisions for its effective implementation, including those pertaining to

- (a) The scheme's scope and beneficiaries of the scheme.
- (b) Resources of the plan
- (c) The agency or agencies that will carry out the plan
- (d) Grievance redress and
- (e) Any other pertinent Information.



ABOUT NATIONAL BOARD FOR UNORGANISED WORKERS:

Under **section 5(1)**, to exercise all powers provided to it and to perform out the duties assigned to it by the act, the central government shall, by notification, establish a national board to be known as the National social security board.

Under **section 5(2)**, the members of National board i.e.

- (a) Union Minister for labour and employment share person ex officio;
- (b) the Director General labour welfare Member-secretary ex officio;
- (c) **34** members to be nominated by the government out of whom-
 - (1) **7** representing unorganised sector workers;

- (2) **7** representing employers of the unorganised sector;²
- (3) **7** representing eminent persons from Civil Society;
- (4) **2** representing numbers from Lok Sabha and **one** from Rajya Sabha ;
- (5) **5** representing Central Government ministers and departments concerned;
- (6) **5** representing state government.

Under **section 5(3)**, Chairperson and other member of the board shall be from the fields of labour welfare, management, finance, law and administration.

Under **section 5(5)**, the term of national board shall be 3 years.

Under **section 5(6)**, the national board shall meet at least thrice a year relating to transaction of business at its meeting.

Under **section 5(7)**, the members may receive such allowances for attending the meetings of the National board.

Under **section 5(8)**, the functions of the National board;

- (a) Recommend to the central government suitable scheme for different sections of the unorganised workers
- (b) Provide advice to the Central Government on any issues that may come up throughout the administration of the Act.
- (c) Monitor such social welfare schemes for unorganised workers as administered by the central government
- (d) Review the progress of registration and issue of Identity card to the unorganised workers
- (e) Review the Record Keeping functions performed that the state level
- (f) Review the expenditure from the funds under various schemes
- (g) Undertake any additional responsibilities that may be given to it by the central government from time to time.

² (Joshi, n.d.)

ABOUT STATE SOCIAL SECURITY BOARD FOR UNORGANISED WORKERS:

According to **section 6(1)**, the state government shall, by notice, create a state board to be known as the (name of the state) state social security board in order to exercise all powers granted to it and to carry out the responsibilities assigned to it by the act.

According to **section 6(2)**, the members of the state board are:

(a) The chairperson, who is ex officio the state's minister of labour and employment

(b) The principal secretary or secretary (labour)-member-secretary, ex officio; and

(c) **28** members to be nominated by the state government, of whom

7 represent unorganised sector employees;

7 represent unorganised sector employers;

5 represent eminent members of civil society;

7 represent state government departments concerned; and

2 represent members of the concerned state's legislative assembly.³

Under **section 6(3)**, Chairperson and other member of the state board shall be from the fields of labour welfare, management, finance, law and administration.⁴

Under **section 6(5)**, the term of state board shall be 3 years.

Under **section 6(6)**, the state board shall meet at least once in a quarter relating to transaction of business at its meeting.

Under **section 6(7)**, the members may receive such allowances for attending the meetings of the state board.

Under **section 6(8)**, the functions of the state board;

³ (htt)

⁴ (Goel, n.d.)

- (a) Recommend to the state government suitable scheme for different sections of the unorganised workers
- (b) Provide advice to the state Government on any issues that may come up throughout the administration of the Act.
- (c) Monitor such social welfare schemes for unorganised workers as administered by the state government
- (d) Review the Record Keeping functions performed that the district level
- (e) Review the progress of registration and issue of Identity card to the unorganised workers
- (f) Review the expenditure from the funds under various schemes
- (g) Undertake any additional responsibilities that may be given to it by the state government from time to time.

Under **section 7(1)**, any scheme advised by the state government may be

- a) Wholly subsidize by the state government or
- b) Partly subsidize by the state government and partly subsidize through contributions collected from the beneficiaries of the scheme or the employers or the employees.

Under **section 7(2)**, the state government can get help from central government for the schemes formulated by it.

Under **section 8**, the district administration is responsible for preserving the records required by this statute.

The record keeping functions shall be performed by the district panchayat in rural areas and the urban local bodies in urban areas.

Under **section 9**, the state government may establish these centres to serve the following purposes:

- a) Disseminate information on social security programmes that are available for unorganised workers;
- b) Streamline the completion, processing, and forwarding of application forms for unorganised worker registration,
- c) Assist unorganised workers in getting district administration registration,
- d) Make it easier for the registered unorganised employees to enrol in social security programmes.

Under **section 10(1)**, every unorganised worker must have reached the age of fourteen in order to be eligible for registration, and they must self-declare that they are unorganised workers.

Under **section 10(2)**, each qualified worker must submit a registration application in the approved form to the district administration.

Under **section 10(3)**, the district administration must register each unorganised worker and provide them a portable smart card with a unique identifying number as their identity card.

Under **section 10(4)**, if a scheme mandates a contribution from a registered unorganised worker, that worker will only become eligible for social security benefits under the scheme after making the required contribution.

Under **section 10(5)**, if the scheme calls for a contribution from the central or state governments, they must do so on a regular basis in accordance with the scheme's provisions.

Under **section 11**, the central government may give directions to national board and the government of a state or the state board of that state for matters relating to implementations of the provisions of the act.

Cases:

Siddheshwar, Hubli v. Employees State Insurance Corporation is a legal case.

The court has broadened the scope of what constitutes an employee for the purposes of this Act and further clarifies that this Act is applicable to individuals whose services are rented to the major employer.

M.C. Mehta v. State of Tamil Nadu, a precedent-setting case,

The Indian Supreme Court ordered the government to conduct an investigation and to put an end to child labour in the companies that make matchsticks and crackers. In addition, the court ordered that section 21 of the Contract Labour Act of 1970 be followed and that the minimum pay earned by the subcontractors under the Minimum Wages Act be paid directly.

The State v. Banwari case involved

"The person cannot refuse to render the services merely on the grounds that such labours belong to the Scheduled Caste," the High Court of Allahabad said. The goal of doing this is to safeguard the interests of society's weaker groups.

Union of India v. People Union for Democratic Rights is a legal dispute.⁵

The court determined that being a beggar violates the fundamental human rights to live in dignity and respect as well as being a kind of forced work. A breach of Article 23 of the Indian Constitution occurs when someone uses workers without paying the required minimum wage.

In the case of **Deena vs Union of India**,

According to the court, forced labour is defined as labour performed without paying convicts a fair rate and is in violation of Article 23 of the Constitution. The court must uphold the labourers' claim so that the inmates may demand fair compensation for the services they have provided.

Conclusion:

The government can add some more acts for the unorganized workers like Minimum wages Act, Payment of wages Act, Payment of bonus act, the Employee's Compensation Act, the Employees' State Insurance Act, the Employees Provident Funds and the Maternity Benefit Act and the Payment of Gratuity Act. This will really help them in all means and they will also

⁵ (htt1)

obtain those benefits from their employers. Every employee wants to be paid for the costs he has incurred and requires stable work. Regardless of how big or small the organisation is, this is a need that must be met. After all, workers are what make an employer successful. Section 11 gives the Central Government the authority to direct the State Government and National Board in the appropriate way to implement this Act's provisions.

