Social Security For Workers in Unorganised Sector
“Ayeyasas a Kanihsataa......
Sam Bhartaaro Va Vridhuhu Sowbhagya

-Rig Veda.

(No one is superior or inferior. All are brothers who should strive collectively for the common welfare.)
CHAPTER 5

SOCIAL SECURITY FOR WORKERS IN UNORGANISED SECTOR

UNORGANISED LABOUR - AN INTRODUCTION

The problem of unorganised labour has problem in defining and identifying itself because they cannot be defined but would be described as that part of the workforce who have not been able to organise in pursuit of common objective because of constraints such as:

1. The casual nature of employment;
2. Ignorance and illiteracy;
3. Small size of establishments with low capital investment per person employed;
4. Scattered nature of establishments; and
5. Superior strength of the employer operating singly or in combination

The National Commission On Self-Employed women, set up in 1987 observed in its report that unorganised sector is characterised by a high incidence of casual labour mostly doing intermittent jobs at extremely low wages or doing their own account work at very uneconomical returns. There is a total lack of job security and social security benefits. The areas of exploitation are high, resulting in long hours unsatisfactory work

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conditions, and occupational health hazards. In the broad sense, the number of workers employed in an enterprise cannot be the basis of defining the unorganised sector because such an enterprise based definition does not take into account the vast masses of unorganised labour who work as agricultural workers, cultivators, construction workers, self-employed vendors, artisans, traditional crafts persons, home-based workers, traditional service workers, workers depending on the common property resources such as forests and fisheries and others. Almost the entire Non-Agricultural activity in Rural India is unorganised. All these sectors are mostly unorganised in terms of organisation, employment and labour participation. It may be seen from the above observations that the unorganised sector is a term that eludes definition. Hence it is difficult to give precise definition as it exists in one form or another in our society. So in short we could say that all unprotected workers are unorganised labour who are working in unorganised sectors or industries.

5.1 CAUSES FOR UNORGANISED LABOUR.

In our country there can be various factors which are responsible for the existence of unorganised labour. But the root cause is social and economical inequalities throughout the country. Let us turn our lens to discuss some of the causes which are common to all types of unorganised labour as follows:

ILLITERACY

Illiteracy is one of the main causes of unorganised labour. The growth of civilization is directly associated with the growth of literacy which in turn help man to build

a sound personality because Education and Literary determine the level of prosperity, welfare and security of the people. Thus illiteracy is a serious hindrance to an individual's growth and to a country's socio-economic progress.

For instance, ignorance is the first reason which is responsible for the prevalence of crude form of unorganised labour i.e., Bonded labour which is due to illiteracy 429. As major population of India is living in rural areas where educational facilities are not available and due to this reason the illiterate people are not aware about their rights and they are working under the control of their owners or employers without claiming any rights 430. In case of domestic workers also, most of them would not be able to read a contract or sign their own names as they have no formal education which impede access to justice.

POVERTY

The virtual lack of investment in human capital and lack of other productive assets means that the households have to exclusively earn income from their physical labour for sustenance. They have to work against their will or wishes even when they are poorly paid with a view to satisfy the basic needs of their family. In most of the cases their meagre income plays a crucial role in saving the family from virtual starvation. One of the prominent causes of poverty is lack of education which is called investment in human being.


Education involves money outlay. But due to inadequate wages, many labourers are unable to give proper education to their children. Thus poverty breeds poverty.

MIGRATION

If we take agricultural sector, it does not provide work for the whole year as it is seasonal and intermittent in character. The lack of employment opportunities compel the “productive” agricultural labourers for migration in search of livelihood. Due to scarcity of occupations in organised sector, majority of them are bound to choose occupations in unorganised sector. There is hardly any suitable labour legislation which applies to these workers 431.

INDEBTEDNESS

In the ancient society the persons belonging to the poor family workers in India were born in debt, lived in debt and died in debt, this fact is still true, particularly in agricultural sector despite several remedial measures initiated by the Government of India 432.

A poor worker on account of low wages incurs debt to fulfil social obligations such as to spend on marriage, a child’s birth, a funeral feast or a festival. His dues accumulate very fast under exorbitantly high rates of


432 ibid., P-82.
interest and finds it impossible to extinguish his debts and begins to work for the creditor at absurdly low wages and hopes to repay the debt by the fruits of his labour 433. Due to heavy indebtedness, the worker cannot think progressively and considers whole of his life unrelieved drudgery. For instance, the increasing indebtedness of small farmers in rural area is also responsible for increasing the number of agricultural workers. The small farmers get loans from the money-lenders to meet out their family problems.

The Money Lenders often advance loans with the purpose of grabbing the land of small workers. For that they adopt malpractices like charging high rates of interest, manipulating accounts etc. Once the small and marginal farmers fall into their trap, it becomes difficult to them to get out 434. In an attempt to repay debts they have no alternative but to seek employment as agricultural workers. In this way they become unorganised labourers.

INDUSTRIALISATION AND URBANISATION

India is among the first ten in terms of industrialisation, but among the poorest in terms of per capita income435. Expensive Urban living and low wages compelled the children to take up industrial employment in order to support meagre family income. Due to those compelled circumstances they have to work even


434 ibid., P-86

for less than minimum wages so that they may avoid the situation of starvation in their family.

5.2 PROBLEMS OF UNORGANISED LABOUR

It cannot be denied that the unorganised sector does not get enough protection through labour legislation. Despite the existence of labour laws, for various reasons, the workers in this sector do not get social security and other benefits, as do their counterparts in the formal sector. Here workers are highly exploited by entrepreneurs. They are employed on casual basis. With the exception of very few cases, there is hardly any trade union or other institutional machinery to fight for the workers. Upto now, collective bargaining has not been able to get any visible space in the unorganised sector. Therefore the women workers are particularly discriminated due to inadequate bargaining power and lack protection.

So they are socially and economically exploited by the haves of our country.

It would be useful and necessary to examine the problems of unorganised labour so that an all out attempt to improve the application and extension of social security measures could be taken to ameliorate economic and social conditions of the unorganised labour. The expression ‘unorganised labour’ refers to that vast segment of workforce that has remained unprotected. It encompasses in a

wider sense agricultural labourers, low paid workers in small manufacturing services in rural and urban areas, Beedi and Cigar workers, Rag-Pickers, Self Employed etc. so it is not easy to precisely identify and enumerate all the categories of this sector and hence an attempt has been made to focus some of the specific groups of employment in this unorganised sector and the problems confronted by them with special reference to Tamil Nadu which are as follows:

5.2.1. SMALL AND MARGINAL FARMERS AND LANDLESS AGRICULTURAL LABOURERS.

Small and Marginal farmers (110 Million) and landless agricultural labourers (75 Million) together constitute a formidable number and are about 185 million. Additionally, these are share croppers who also work as agricultural labourers. Majority of the share croppers and landless agricultural labourers belong to the community of scheduled castes who for generation have been victims of social discrimination and economic exploitation. They donot have stability and durability of employment and are landless and assetless, with low wages, low skills, lack of bargaining power and are characterised by a culture of silence and dependence and a state of stoic resignation to the harsh ground level relatives 437. Many of them do not have a roof over their heads. Further their condition of abject poverty forced them to incur loans to satisfy their basic needs and their inability to pay the loans lead to their bondage.

5.2.2 EMPLOYMENT IN HANDLOOM WEAVING

The handloom industry alone claims a major chunk of unorganised labour. The important characteristic of the handloom industry is that the workers in this industry depend upon weaving as their sole occupation as they are accustomed to continuous monotonous and sedentary work. The pattern of employment in this industry includes four different categories of workers as follows:

An Independent Weaver: Who owns his loom and other instruments of production and procures yarn and raw materials himself and pursues his business including marketing of goods as an independent craftsman.

Dependent weavers: The weavers working under the master weavers receive wages at piece-rate basis.

Coolie weavers: Who have nothing of their own except their skill and labour. Lack of adequate finance is largely responsible for the extreme dependence of coolie workers on their master weavers.

A major handicap in the industry is the problem of shortage of supply of yarn, which again is the caustive factor for under-employment. Ordinarily, a weaver gets 10 to 15 days employment, which alone constitute the source of income of their families for the entire month. Under these circumstances, the coolie weavers are often ready to accept employment on most exploitative terms. In Tamil Nadu, more than 90% of the weavers work at their homes and the condition of

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housing of the workers remains unsatisfactory. Weaving as a matter of fact is a joint family venture in which the preparatory processes are attended to by grown up boys and unmarried girls in as much as the work relating to spooling and beaming requires nimbleness of fingers. These children who help their parents to increase their family income are denied proper education after primary level of schooling due to their abject poverty and their pecuniary needs to supplement their insufficient family income. Employment in this industry is one of the scheduled employments under the Minimum Wages Act, 1948. But this alone will not be sufficient enough to improve the living conditions of the workers in these industries, without proper attention being paid for their enforcement and also to housing, medical and educational needs and social security measures for this under privileged population of labour force 439.

5.2.3. EMPLOYMENT IN FISHERIES

The condition of fishermen and workmen is a tragedy one. The life of fishermen who go to the deepsea for fishing are not assured of his life as he may fall victim of cyclones and tidal waves under adverse weather conditions. In case of fisher woman, she has to carry head loads of fish for sale in the markets by travelling long distances on foot and in the absence of any storage facility their goods perish. They suffer from skin diseases and other communicable diseases as they reside in an extremely unclean and unhygienic surroundings. Majority of the fisher women are victims of both social discrimination and

439 ibid., P-43.
economic exploitation. The mechanised trawler owners who are well organised have access to credit and all other resources and also are progressively invading the sea year after year are expropriating their basic rights. In the absence of any country wide survey in general and in the coastal states like Andhara Pradesh, Orissa, West Bengal, Karnataka, Tamil Nadu, Maharashtra, Gujarat and Kerala, it is not possible to have an accurate, authentic and up to date data on the basis of which some social security measures like accident insurance, health insurance, old age protection etc., could be planned for them 440.

5.2.4. EMPLOYMENT IN SALT PANS.

The Salt Pan Workers are yet another deprived and vulnerable sectors of the work force in the unorganised sector. They prepare the salt fields, pump brine into the fields at a particular temperature and climatic condition. They are found to be suffering from skin diseases as they have to work constantly in salt water. They also develop eye problems, especially because of the reflection of light from the heap of salt. Many women have experienced miscarriages due to the heat of salt and women having small kids complain about reduced breast milk 441. Due to their continuous contact with chemicals, their fingers and feet get eroded and they also become victims of many communicable diseases. In Tamil Nadu, particularly in Vedaranyam the coverage of number of employee’s under the Emp-


employees Provident Fund and Miscellaneous Provisions Act, 1952 and Employee’s State Insurance Act, 1948 is not encouraging. In case of workers of salt pans at Tuticorin, they are ignorant and being unorganised could not raise their voices against payment of wages at lesser rates lest they should forfeit their employment under the contractors 442 eventhough this is a scheduled employment under Minimum Wages Act, 1948.

5.2.5 EMPLOYMENT IN LOADING AND UN LOADING OPERATIONS

Employment in loading and unloading operations is integrally connected with all activities in the manufacture and distribution of goods in any trade or business. These workers are employed in Railway good sheds, Bus Stands, Lorry Sheds, Godowns, Ware Houses, Market Places etc. Continued employment over years in this field as head-load worker is often fraught with its own occupational hazards like physical and Psychological damages which of the manifest in the form of arthritis latent spinal bone injuries and other related complications. In Tamil Nadu, the workers in this employment eventhough covered by the provisions of Minimum Wages Act, 1948, the contractors who engage the service of the workers appear to have no regard for the Government fixed minimum rates of wages and as the employment is not carried strictly on the pay-roll, the rights of the workers always go unclaimed and their sufferings unmitigated 443.

442 Report of the committees constituted to study the problems and issues of unorganised labour in Tamil Nadu 1998 PP 56-57

443 ibid., P-48.
5.2.6. EMPLOYMENT IN BRICKS AND TILES MANUFACTURE

This employment employing huge human force is engaged in manufacturing process without utilising power. The labour in this industry is totally unorganised as is evident from the fact that there is hardly any trade union for representing the workers in this industry exclusively. The monsoon season is a curse on the fate of the workers employed in this employment, as they are forced to be unemployed. Inspite of the Statutory Protection to this labour under the Minimum Wages Act, 1948, in actual practice due to inefficient implementation, the workers are denied even the minimum guaranteed wages.

5.2.7 MIGRANT WORKERS

Right to move freely from one part of the territory of India to another is a Fundamental Right guaranteed under Article 19 of our constitution. So there should be nothing to have dispute regarding this. But, it however, becomes exploitative to the core when individuals who are landless and assetless, unemployed and under-employed. The basic cause of migration is lack of employment opportunities. Inter-state migrant is an exploitative system as there are malpractices indulged in by the contractors which can be understood by the following passage:

Though it was promised at the time of recruitment by agents and middleman that “Wages calculated on piece rate basis would be settled every month, the promise is not usually kept. Once the worker comes under the clutches of the contractor he takes him to a far-off place on payment of railway fare only. No working hours are fixed for these workers and they have to work on
all the days in a week under extremely bad working conditions. The provisions of the various labour laws are not being observed in their cases and they are subjected to various malpractices 444.

Thirty five million men, women and children are constantly on the move and have been pushed in the core of exploitations, misery and suffering. Since they do not have stable and durable employment, they keep on moving from place to place and so employers and middlemen find it easy to flout the statutory requirements of maintaining the registers and not to comply with any of the statutory requirements of contract labour (Regulation and Abolition) Act, Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, Employees Provident Fund and Miscellaneous provisions Act and so on 445

5.2.8 PROBLEM OF BEEDI WORKERS

The beedi workers are another section of the disadvantaged workforce in which nearly five million beedi workers roll beedies, label them, pack them and despatch them for sale 446. Majority of them are home-based workers and very often entire families (including children) are engaged in the work. This type of workers are being deprived of basic amenities of life as they are not being


446 ibid., P-196.
regularised strictly according to the provisions of labour law. So they are being victimised by their respective employers. The beedi workers fall victims to pulmonary and respiratory diseases like asthma, tuberculosis etc. Beedi and Cigar work are being done mostly in the remote areas of our country which are situated in unorganised sectors. On account of their illiteracy, poverty and compelled circumstances, they are not aware of their legal rights. A majority of work is carried out by women. The labour ministry has recommended to the state Government that women inspectors may be appointed to oversee the implementation of labour laws affecting their welfare. Beedi is a scheduled industry both under Minimum Wages Act as well as under the Employee’s Provident Fund and Miscellaneous Provisions Act. Due to malfunctional middlemen the minimum rate of wages are not paid to them. Due to their low wages, it is difficult to workout a social security scheme such as Provident Fund and Employee’s State Insurance Act which required contribution from the workers and only 1.5 million beedi workers have been covered under the Act as against 5 million workers.

5.2.9. EMPLOYMENT IN MATCH AND FIRE WORKS MANUFACTURE.

A peculiar feature of this industry is the preponderant employment of women and children who are engaged as home workers in process, other than those which could not be carried out except in factory premises engaging male workers. Hence

Majid, Abdul, “Loc. Cit.”, P-76.

the employment in match industry is more or less akin to the type of manufacture of beedi industry. In Tamilnadu, a large concentration of this industry is seen in areas like Gudiyatham in Vellore district, Sivakasi and Sattur in Virudhunagar District. Fire explosions are the worst hazards in this employment. A group personal accident insurance scheme has been formulated for the benefit workers which is designed to give relief against loss of limbs, loss of eyesight etc., of the insured due to accidents. The committee of Tamil Nadu regarding the study of unorganised labour observed that the vast majority of the labour force has remained invisible because it is home based and employed through middle men.

5.2.10 TRIBAL LABOUR IN COLLECTION OF FOREST PRODUCE

Employment in collection of forest produce is a collective term used to indicate multifarious avocations like honey-collection, reeds collection, tamarind collection, spices collection and includes every physical endeavour to collect and segregate vegetable produce to economic importance. Both men and women are employed in this venture. So, it is a family based employment activity of the tribal in which they suffer enormous occupational risks and hazards of snake bites, stinging bites of insects and also the hazards of sun, rain and storm. Therefore adequate protection is needed for them by means of social security schemes.
5.2.11 EMPLOYMENT IN RAG - PICKING

The vast majority of rag-pickers are children. Poverty is the chief factor which compel children to take up this work. A broken family is the prime reason for many children being forced to survive on the streets. Another aspect of employment is forced labour through brokers, who procure the children from their parents after paying anything between Rs. 2,000/- to Rs. 3,500/- per year. These children are forced to work under the control of the brokers at their tender age, totally deprived of their childhood freedom. These children are literally pawned by their parents. This is the worst form of bonded labour being practiced discretely without the notice of the outside world. In Tamilnadu the areas such as Chennai, Madurai and Coimbatore have the most number of Rag-Pickers and they are not covered by Labour Laws.

5.3 CONSTITUTIONAL SAFEGUARDS FOR UNORGANISED LABOUR.

We are living in a democratic country in which all are equal before the eyes of law and equal protection shall be secured to all such persons in the enjoyment of their rights and liberties without discrimination or favouritism. The constitution of India, in its preamble solemnly resolves to secure to all its citizens - Justice, Liberty, Equality, and Fraternity. The Fundamental Rights (Part III of our constitution) and the Directive principles of state policy (Part IV) all emphasise

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450 Report of the Committee constituted by Tamil Nadu to Study the problems and issues of unorganised labour in Tamil Nadu, 1998, P-72.
the idea of social and economic justice for all its citizens, i.e., in this sovereign Socialistic, Democratic, Republic, all men and women should have equal justice in the social, economic and political spheres. The concept of social and economic justice is a living concept of revolutionary import which gives sustenance and significance to the ideal of a welfare state.

5.3.1. CONSTITUTIONAL SAFEGUARDS ENSHRINED IN FUNDAMENTAL RIGHTS:

As proclaimed in Article 14 of our constitution, all are equal before law and state shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. Our constitution prohibits the discrimination on grounds of religion, race, caste, sex or place of birth. This is an elaboration of rule of equality laid down by Article 14 itself. Article 19 provides various freedoms to all irrespective of their status such as freedom of speech and expression; to form association or unions, to move freely throughout the territory of India etc., and therefore, the unorganised workers are also entitled to it.

Our constitution safeguards are very valuable right to life and personal liberty to the citizens of India including unorganised labourers—Article 21 declares that no person shall be deprived of his life or personal liberty except according to the procedure established by Law. Hon’ble Supreme Court of India has widened the scope of Article 21 in Maneka Gandhi’s Case and held that right to live is not merely confined to physical existence but it includes within its ambit the right to

451 1978 (2) SCJ 31
live with human dignity.

In people’s union for Democratic Rights Vs Union of India \(^{452}\), it was held that the rights and benefits conferred on the workmen employed in various work entitled to human dignity and if the workman are deprived of any of these rights and benefits, that would clearly be a violation of Article 21.

5.3.1.1 RIGHTS OF UNORGANISED LABOURERS AGAINST EXPLOITATION

Article 23 of the constitution prohibits traffic in human being and begar and other similar forms of forced labour. This Article protects the individual not only against the state but also against private citizens. It imposes a positive obligation on the state to take steps to abolish evils of “traffic in human beings” and prohibits the system of bonded labour.

The Supreme Court in Deena Vs Union of India\(^{453}\) has held that labour taken from prisoners without paying proper remuneration was “forced Labour” and violative of Article 23 of the constitution.

In Bandhua Mukti Morcha Vs Union of India \(^{454}\) the Supreme Court held that when an action is initiated in the court through public interest litigation alleg-

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\(^{452}\) AIR 1982 SC 1473.

\(^{453}\) AIR 1983 SC 1155

\(^{454}\) AIR 1984 SC 802.
ing the existence of bonded labour, the Government should welcome it as it may
give the Government an opportunity to examine whether bonded labour system
exists and as well as to take appropriate steps to eradicate that system. This is
constitutional obligation of the Government under Article 23 which
prohibits 'forced labour' in any form.

Article 24 of the constitution prohibits employment of children below 14
years of age in factories and hazardous employment. The provision is
certainly in the interest of public health and safety of life of children.

5.3.1.2. RIGHTS OF UNORGANISED LABOURERS TO CONSTITUTIONAL
REMEDIES.

A declaration of fundamental rights is meaningless unless there is
effective machinery for its enforcement. Article 32 (1) says that whenever there
is a violation of fundamental right, any person can move the court for an
appropriate remedy. Because it is the remedy which makes the right real. The
Supreme Court will now be ready to interfere under Article 32 wherever and when-
ever any injustice is caused or being caused any, the state action to the poor and
helpless persons who cannot approach the court. The court has
jurisdiction to give appropriate remedy to the aggrieved persons in various
situations. Injustice done to children in jails, protection of pavement and slum
dwellers of Bombay, payment of minimum wages and other benefits to workers in

455 Upendra Baxi Vs State of U.P. (1983) 2 SCC 308; see also Upendra Baxi
various state projects, abolition of bonded labours, protection of environment and ecology are the instances where the court has issued appropriate writs, orders and directions on the basis of Public Interest Litigation or Social Action Litigation 455.

5.3.1.3 CONSTITUTIONAL COMMANDMENTS FOR THE WELFARE OF THE UNORGANISED.

The Directive Principles Of State Policy lay down certain economic and social policies to be pursued by the various Governments in India. The Constitution Of India through Article 38, imposes duty upon the state to secure a social order for the promotion of welfare of the people. For that the state shall in particular strive to minimise the inequalities in income and endeavour to eliminate inequalities in status, facilities and opportunities. not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations. Article 39 also directs the state to form policy towards securing: (a) that citizens, men and women equally, have the right to an adequate means of livelihood; (b) that there is equal pay for equal work for both men and women; (c) that health and strength of workers.. are not abused and citizens are not forced,..... to enter avocations unsuited to their age and strength; (d) that childhood and youth are protected against exploitation and moral and material abandonment.

In M.C. Mehta Vs State of Tamil Nadu 456, it was held that in view of Article 39, the employment of children within the match factories directly connected with the manufacturing process of matches and fireworks cannot be allowed as it is hazardous. Children can, however, be employed in the process of packing but it should be done in area away from the place of manufacturing to avoid exposure to accidents. Article 41 gives direction to the state to make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement and in other cases of undeserved want within its economic capacity. Through Articles 42, 43, 45, 47 Indian Constitution imposes duty upon the state to make provisions for just and human conditions of work and maternity relief, to secure agricultural, industrial or otherwise a living wage with a decent standard of life by suitable legislation, to provide for free and compulsory education, to raise the level of nutrition and the standard of living respectively. Thus the constitution imposes directions in order to promote the welfare of the people and achieve economic democracy so that the unorganised labourers may be protected from economic exploitation 457.

5.3.2. SOCIAL SECURITY LEGISLATION AND LABOUR WELFARE SCHEMES OF UNORGANISED LABOURS

There are a number of legislations and other welfare schemes that provide social security to workers in the organised sector. Some of these are

applicable to certain categories of workers in unorganised sector too. The existing laws on social security for organised labour has been discussed in chapter-4. Therefore an attempt in made to focus towards the coverage of the unorganised workers in the existing law on social security. To be covered under Employe's State Insurance Act, it has a threshold limit of employment of 10 persons. So the Act is not applicable to the workers in the unorganised sectors. Like wise, the Employee's Provident Fund Act is applicable to the factories and establishments that employ 20 or more persons. So a large number of workers working in smaller units, remain out of the ambit of this Act. But the contract workers in bigger establishments, though they get covered under both the above mentioned laws, are often denied the benefits of these laws 458. The Payment Of Gratuity Act is applicable to factories, plantations, Shops and establishments, Mines, Oil Fields, Ports, and Railway companies etc., which employ 10 or more employees. To be eligible for the gratuity benefit, a continuous service of 5 years or more with one employer is also essential. But it is evident that a large number of workers are out of the eligibility criteria. The Maternity Benefit Act applies to the facories, Mines, Plantations etc., where 10 or more persons are employed. Besides this, the threshold limit of employment of the above said Act is that, a woman employee who com-


459 ibid.
pletes at least 80 days of work prior to delivery is entitled for benefit under the Act. So in actual practice, this Act also does not cover women workers in the unorganised sector. So it may be seen from the above discussion that the existing labour laws do not cover the vast majority of workers who work as home-based workers, domestic workers, self employed workers and workers working in small units 459.

WELFARE FUNDS AND BONUS:

The Central Welfare Funds have been setup by Special Acts of Parliament. Beedi workers are covered by the Beedi Workers Welfare Fund Act, 1976 and Beedi Workers Welfare Cess Act, 1976. A fixed cess is levied per bundle of 1000 beedies manufactured. Under the Building and Other Construction Workers (Regulation of Employment and Conditions Of Service) Act, 1996, construction boards are constituted. A cess is collected at the rate not exceeding 2% of the cost of the construction made as per the Building and Other Construction Worker's Welfare Cess Act, 1996. Similarly in Cine Workers Welfare Cess Act, 1981, has also adopted a method of levying cess on films on the basis of production, not on the basis of collection. Among the funds related to mines, for mica, the cess is collected at a certain percentage of its export value. However, the cess is levied for other mine products on the basis of the quantum of production, not on the basis of the value of production.

460 ibid., P 714.
BENEFITS

The welfare funds fall broadly into two groups one is tax based and other one is contributory. The funds set up by the Central Government are tax based while those setup by the Government of Kerala are mostly contributory.\(^{460}\)

The benefits through Central welfare funds for mineworkers and beedi rollers are used to fund the improvement of public health, sanitation, medical facilities, water supply and educational facilities, prevention of disease, the improvement of standards of living including housing and nutrition, and the amelioration of social conditions and provision of recreational facilities. In actual practice, most of the expenditure from the welfare funds has been on health, education and housing. For example, in 1992-93 in the case of the limestone dolomite mine workers 51.49% was spent on health, 9.7% on education/recreation, and 17.83% on housing.\(^{461}\)

5.3.2.1 SOCIAL SECURITY SCHEMES IN KERALA

Kerala is the pioneering state of India where the State Government has taken a number of steps for the welfare of unorganised labourers. It has a unique record of achievement in “Human Development Index” as it has set up more than 20 welfare funds for the benefit of workers in the unorganised sector. These welfare funds provide a wide range of benefits including old-age

\(^{461}\text{ibid., P -}715\)
benefit, medical care, education, assistance for marriage, housing etc., to the workers. The schemes are administered by autonomous boards and financed by contributions from employers, workers and others. The major schemes implemented by the statutory boards in Kerala are as follows:

The Kerala coir workers welfare scheme,

The Kerala Handloom Workers Welfare Scheme,

The Kerala Motor Transport Workers Welfare Fund Scheme,

The Kerala Autorickshaw Workers Welfare Fund Scheme,

The Kerala Cashew workers Welfare Scheme,

The Kerala Fisherman Welfare Fund Act 1985,

The Kerala Head-load Workers Scheme,

Non-Statutory And Other Miscellaneous Schemes,

Kerala Tree Climbers Welfare Scheme,

Kerala Artisans and Skilled Workers Welfare Scheme 1991,


5.3.2.2 POSITION IN TAMIL NADU

A separate legislation to protect the workers in the unorganised sectors against the ills of unemployment or under employment had already been enacted by the Government of Tamil Nadu called “The Tamil Nadu Manual Workers (Regulation of Employment and Conditions of work) Act, 1982. This Act ensures certain other improvements in their living and working conditions. This substantive law is followed by the procedural law, called “The Tamil Nadu Manual Workers (Regulation of Employment and Conditions of work) Rules, 1986. The list of employments in the unorganised
industries, which are considered to be prone and vulnerable for exploitation may be scheduled under this Act. It also provides for the registration of unorganised workers included in the schedule of employments, on payment of fees with a view to provide for the general welfare and security in such scheduled employment. The law ordains that an employer in relation to a registered worker, whether a principal employer engaging through or by a contractor or otherwise, whether such a person is called an agent, manager or by any other name, if such a person has ultimate control over the affairs of the scheduled employment, should get himself registered under the Act.

This Act has been amended to insert a new section 8B to expand the definition of the term 'manual worker' and also enabling the collection of contribution from the employer. This legislation provides for constitution of one or more Boards for the scheduled employments in any area or one or more areas, with the status of body corporates. Every such board may consist of members nominated by the Government to represent the employers and the workers in equal proportion. The chairman has to be appointed by the Government, from among the members representing the Government. A scheme called the Tamil Nadu Manual Workers Social Security And Welfare Scheme has been formulated in 1999 which provides for the establishment of the 'Tamil Nadu Manual Workers Society Security And Welfare Fund'. The object of the scheme is to provide (1) for a Group Personal Accident Relief Scheme (2) a Maternity Benefit Scheme and (3) a Terminal

"ibid., P-720."
Benefit Scheme. The workers are entitled to enjoy the benefits under the scheme, after 12 months of their registration. Besides, the grant of Rs. 40 lakhs sanctioned by the Government, the Board received Rs. 47 Lakhs from the collection of 1% of the Motor Vehicle Tax (figures for 02-03-2000) 462. Tamil Nadu set up a Statutory Scheme in 1994, namely the Tamil Nadu Manual Workers (Construction Workers) welfare scheme even before the Building And Other Construction Workers (Regulation of employment and conditions of service) Act 1996. As per Section 8A of the Tamil Nadu Manual Workers (Regulation of Employment and Conditions of work) Act 1982, any person who undertakes any construction work within Tamil Nadu will be liable to pay 0.3% of the total cost of construction to the fund. The Government and Governmental Departments should also pay their contribution to the fund directly. The schemes such as Group Personal Accident Insurance Scheme, Educational assistance, marriage, Assistance Scheme, Maternity/Abortion Assistance scheme has been provided for the welfare of the registered construction workers.

TAMIL NADU LABOUR WELFARE BOARD

The Welfare Fund is collected annually at the revised rate of contribution at Rs 5, Rs. 10 and Rs. 5 per from the Employees, Employers and the Government respectively. The board functions with 19 representatives consisting of 4 Government Officials, 5 Employer's

462 ibid., P - 716.
Representatives and 5 Employee’s Representatives, 3 members of the Legislative Assembly and 2 Women Representatives. The Minister of the Labour is the chairman of the Board. The Board is implementing several welfare schemes and Rs. 28,50,660 have been disbursed to 5552 beneficiaries during the year 1999.

5.4 UNORGANISED LABOUR AND OTHER STATUTORY SAFEGUARDS.

Apart from the above, let us look at the following Labour Laws, which designed to regulate and protect the interests of unorganised labour as follows:

INTER-STATE MIGRANT WORKMEN (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) ACT 1979.

This Act seeks to regulate the employment of inter-state migrant workman and provides for the conditions of inter-state migrant workmen and matters relating to them. The vast majority of migrant workers fall in the unorganised sector. The benefits include non-discrimination in wage rates, holidays, hours of work and other conditions of work for inter-state migrant workers in relation to local workers. By application of the Act the authorities can ensure for basic needs like housing, food production, clothing and medical facilities for workman. The Act is implemented by the Central and State Governments in their respective sphere of jurisdiction.

CONTRACT LABOUR (REGULATION AND ABOLITION) ACT 1970

This Act seeks to regulate the employment of contract labour in certain establishments and to provide for its abolition in certain circumstances and for matters connected therewith because contract labour is one of the most exploited sections of human labour. The Act does not provide for the total abolition of contract labour, but only for its abolition in certain circumstances, and for the regulation of the employment of contract labour in certain establishments. There are a number of provisions in the Act for the welfare and safety of contract labour. The principal employers and contractors should maintain certain records, registers, returns etc., for regulating its implementation.

BEEDI AND CIGAR WORKERS (CONDITIONS OF EMPLOYMENT) ACT 1966

This Act provides for the welfare of the workers in Beedi and Cigar establishments. It also regulates the conditions of their work and related matters. The Act provides for licensing of all industrial premises where beedi or Cigar or both are made. As regards health of the workers it provides for cleanliness, ventilation and prohibits over-crowding of the premises. It provides certain welfare measures such as arrangements for drinking water, latrines and urinals, washing facilities, creches, first aid and canteens and also prohibits child labour.

BUILDING AND OTHER CONSTRUCTION WORKERS’ (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) ACT 1996.

This Act provides for the regulation of the employment and conditions of service of building and other construction workers. It also
provide for their safety, health and welfare and other incidental matters. This Act applies to every building or other construction work establishment, which employs or had employed ten or more workers. It covers all central and state Government establishments and also all private residential buildings if the cost of construction is more than Rupees Ten Lakhs. Registration of the establishment is compulsory. An establishment without registration cannot employ any building or construction worker.

BONDED LABOUR SYSTEM (ABOLITION) ACT 1976.

The Primary and unique feature is the abolition of bonded labour, which the very title of the enactment signifies. It renders every covenant or customs or the like relating to bonded labour wholly ineffective and void. Similarly, it extinguished the liability of every bonded labourer to repay the debt. Any attachment made prior to this Act stood vacated as such the possession of the property is restored to the bonded labourer. It specially confers power upon the State Government, to prescribe the powers and duties of the District Magistrate who in turn shall specify to the concerned officers subordinate to him, for seeking proper implementaiton or enforcement of the provisions of the Act inorder to promote the welfare of the freed bonded labourers.

THE CHILD LABOUR (PROHIBITION AND REGULATION) ACT, 1986.

Statutory regulation are made mainly to protect the interest of child labour which in principle extend also to unorganised sector.

Recently Government of Pondicherry has taken certain concrete steps to protect the interest of unorganised labour. A welfare board has been set
up for construction workers. Steps like periodic revision of wages for other unorganised labourers like Carpenters, Smiths, etc., have also been taken up by the government. To conclude unless far-reaching changes would take place to protect the health, safety of the workers in unorganised sector, it may adversely affect the social and economic growth of the country.

The Government of India is bringing a comprehensive legislation for the unorganised sector workers in agreement with the recommendations of the Second National Labour Commission. This will regulate employment, conditions of the service and also provide health, safety, social security and welfare of unorganised sector workers. Both at Central and the State Level "Unorganised Sector Workers board" is proposed for advising the Central and the State Government. They can formulate scheme for the benefit of the workers. If it is implemented properly the goals setup in our constitution will be realised fully by all.