CHAPTER - V

WORKING WITHOUT RIGHTS:
WOMEN IN THE UNORGANISED
SECTOR
5. Introduction:

Women labour constitutes a significant portion of the total labour force. However, labour market does not play fair to them. Their labour does not receive expected attention and sometimes, becomes marginalised in the process of development. Generally, they have no equal access to the labour market. They are predominately employed in the labour intensive unskilled jobs with less security of tenure and lower wages, while their male counterparts have access to capital-intensive jobs with greater stability, higher wages and better career prospects. In advanced industrial countries, where there has been a dramatic rise in female participation rate, there has been no corresponding decrease in occupation segregation. There are simply more women doing the same kind of jobs. In a developing country like India, the situation is even worse. Not only the participation rates of women is low, but their concentration is much more pronounced in unorganised, unskilled and low paid occupation. They have usually been considered a labour reserve to be pulled into or pushed out of the labour force at will. There are various societal restrictions that are placed on women or women workers and the consequences they have in causing a segmented labour market. The main point of the feminist theories is that the subordinate position of women in the labour market and in the family are inter-related and part of an overall social system in which women are subordinate to men. Man is considered as main bread winner and women are responsible for housekeeping. The women may enter labour market if:
a) there is no man to earn in the family.

b) men may not be able to earn income which will fulfil family requirements.

c) the man may not be ready to share his whole income with other family members rationally, leaving women and children at a very low level.

Low income level compels women to join labour market. Since, she, generally, has no required skill to join high yielding, secure and lucrative jobs she joins inferior jobs. Low payment and insecure job, keeps her at subordinate of her husband. So, they usually behave as labour reserve to be pulled into or pushed out of the labour force at will.

All these have their own impact on the conditions under which women can be expected to work. Yet, one often sees that these special conditions are made excuses for denying women full and equal status as workers, for reducing them to the status of casual employees, or employing them only on casual and contract-based jobs, for creating conditions in which they are compelled to accept jobs that carry lower wages, often with discriminatory practices and attitudes. Even when women are remunerated for their work, their contribution is often undervalued. In formal employment, women earn significantly less than men in every country having data. In the informal sector, where most women work, their earnings at times reach only a third to a half of those of men. A majority of women are to be found in the vast
rural and urban unorganized sector. According to an estimate of the National Commission on Self Employment of Women, 94 per cent of the total female workforce operates in the unorganised sector. Of the total working population of 317 million in the country, over 290 million are in the informal sector and a vast majority of them are women. Amongst rural women workers 87 per cent are employed in agriculture as labourers and cultivators, whilst in urban India 80 per cent of women workers are employed in informal activities like household industry, pretty trades and services, building construction etc. By contrast, women's share in the formal sector (both public and private) is just over 15 per cent.

5.1. The structure of the unorganised sector:

It is important to note that the words 'unorganise sector' and 'informal sector' are regarded as interchangeable terms denoting the same area. The first National Commission on Labour, under the chairmanship of Justice Gajendragadkar, defined the unorganised sector as that part of the workforce who have not been able to organise in pursuit of a common objective because of constraints such as a casual nature of employment, (b) ignorance and illiteracy (c) small size of establishments with low capital investment per person employed (d) scattered nature of establishments and (e) superior strength, of the employer operating singly or in combination. The National

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1. The First Commission on Labour was constituted in 1966 under the Chairmanship of Justice Gajendragadkar. The Commission submitted its report in 1969 after detailed examination of all aspects of labour problems.
Commission on Self-Employed women\(^2\) observed that the unorganised sector is characterised by a high incidence of casual labour mostly doing intermittent jobs at extremely low wages. There is a total lack of job security and social security benefits. The areas of exploitation are high resulting in long hours, unsatisfactory work conditions, and occupational health hazards.

Of course, the unorganised sector is in no way an independent and exclusive sector. It is linked to, or in many cases, dependent on the organised sector and the rest of the economy through a variety of linkages. It depends on the organised sector for raw materials and other capital requirements, generation of employment, marketing facilities, and so on. The subcontracting model is used by the formal sector for engaging labour in the unorganised sector.

According to the National Commission on Self Employed Women the unprotected workers include all those who are outside the preview of the organised sector. By the nature of their activities, they can be classified under the following broad categories (a) home based producers including artisans and piece-rate workers, entrepreneurs of Micro enterprises paid and unpaid family labourers (b) petty vendors and hawkers (c) contract labour and casual labour (d) domestic helpers, (e) those doing manual work like

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2. *The National Commission of Self-Employed Women, set up in 1987 under the Chairmanship of Smt. Ela R. Bhatt, included in their terms of reference, the women workers in the unorganized sector: This report characterised the unorganized earners, piece rate workers, casual labour and paid and unpaid family labour. The economic and social conditions of these women are dismal.*
construction labour (f) women engaged in processing work in traditional and non-traditional areas. On the basis of the employment status the above-said group can be classified under three categories: (a) the self-employed, (b) wage earners working outside their home and working inside the home perhaps in the form of micro enterprises and (c) unpaid family helpers. The unorganised sector presents two problems to policy makers. First an increasingly large segment of the working population is being forced to live at the margin of survival. Second given the availability of such cheap labour in the unorganised sector, employees are likely to divert more activities to such organizations. This would mean that the working class as a whole will in future receive an ever declining share in the products of development. No popular Government can afford to ignore these possibilities for long.

Sometimes the unorganised sector is divided into institutionalised unorganised sector and non-institutionalised unorganised sector. The components of institutionalised unorganised sectors are agriculture, agriculture based industries, construction work, small industrial units like beedimaking, domestic matches, tailoring garment units, food processing units and other registered units. These units are supposed to implement measures like minimum wages and regulation on working hours but not effectively enforcing them. The non-institutionalised unorganised sector comprises workers doing casual work like the domestic workers, sweepers, scavengers, vendors, and hawkers and those who are self-employed.
The concentration of women workers on the informal sector occupations is not due to their choice but because there is no other alternative for them and they are working all through their lives in such jobs.

5.2. Wage Labourers:

There is a strong correlation between casual labour and poverty, which indicates the precarious nature of this form of employment. According to the National Sample Survey, in 1987-8 nearly two-third of female casual labourers in rural areas were below the poverty line. Women get lower payments for the same, or similar, work. Even when wage rates in agriculture have gone up, female wage rates have remained low as compared to male wages. Women face much greater seasonal fluctuations in employment and earnings with sharper peaks and longer slack periods.

In urban areas, women's wage labour is found mainly in construction, agriculture and industries. Labour contractors play a major role in hiring workers, particularly for agricultural and construction labour. Labour is mobilized and hired often under 'loan bondage' type arrangements. Agricultural wage labour does not have a major share in the urban work force except in small towns, where cultivable land is found within the city limits or in adjacent rural areas. Construction, however, is one of the largest sectors, next to manufacturing and trade, in urban India. According to the 1981 census, 4.1 per cent of the urban work force was engaged in construction labour, with women construction labourers being 0.4 per cent of the urban
work force. Women are mostly engaged in the unskilled and less paid jobs. They mix building materials, dig and carry head loads. The bulk of the construction workers are casual or daily wage labourers. Job security is low. Because of the insecurity of employment many construction workers take up secondary activities: petty trade, other casual wage work, agricultural work or domestic service. Various costs including that of transport are often deducted from wage payments. The contractors also reduce the wages by charging high interest rates on loans they give or on commissions for various services provided. In many cases, women workers do not officially exist in the labour force as their names are not entered into the registers and their output of work is added to that of the male members of their households, also engaged in construction. Naturally, their earnings are also passed on to the men. Migrant labour transported by the contractors fares the worst. Migrant labour families are forced to lead a nomadic existence with a contractor, who in many cases fails to provide services such as shelter, water, toilet and child care facilities (Shram-shakti, 1988).

In mines and quarries, the conditions of women labourers are somewhat similar to construction workers in respect of lack of adequate housing, water, toilet and welfare facilities. There is extensive use of contract and casual women workers in plants and mines. For example, in the Madhya Pradesh Steel Plant and Iron Ore Mines, a minority of two hundred women workers worked as regular employees, whereas 1,300 worked on piece-rate and 2,600 under contracts. A case-study of brick kiln, quarry and mine workers in
Bihar and West Bengal brings out clearly the fact that in spite of extensive, but enforced, protective labour legislation the conditions of the workers remain abysmal. The workers are not registered and the pass book as prescribed by law are not kept by the labour contractors. The workers also lack adequate facilities and adequate medical assistance. They are paid on a piece-rate basis and are often indebted to contractors, who charge high interest rates. There are also differences between the scheduled wage rates and the actual paid wage rates.

5.3. Homeworkers:

Homework, or home-based piece rate work, is a sector that is most hidden and about which least is known. There is a continuing conceptual confusion between self-employment and homework, which contributes to the invisibility of the workforce. It is believed that the majority of homeworkers are women, but there are also some men particularly in leather, zari embroidery, bamboo and wood crafts, as well as in weaving. According to a survey carried out by NIUA (1990) in six cities of India, 24.6 per cent of the informal sector work consisted of piece-rate homework, but there was a wide variation between cities from 0.5 to 57.6 per cent.

A common management strategy to cope with market fluctuations has been by the industries to resort to subcontracting and informalization of labour. Through homework, industries have tried to avoid increase in wages, union demands and labour regulations. A number of activities, old and new,
are being carried out through homework. Traditional homework involves embroidery, garments, beedi rolling, agarbatti (incense stick) making, food processing and manufacturing of various handicrafts. New activities include electronics and packaging, as well manufacturing of various new consumer items.

While many women opt for homework, others have no alternative. Homework is often idealized as a provider of flexible work schedules for women to work at their own pace, as and when household work and child care responsibilities allow. Many homeworkers, however, labour intensively under great stress to meet the deadlines and to produce maximum amount of goods, as the wages are among the lowest anywhere. Other problems include isolation of workers in their homes, lack of social protection, cramped surroundings, inadequate protection for occupational health and involvement of child labour. Homeworkers also pay for a part of the raw materials and over-heads such as lighting, heating, maintenance of equipment from their own pockets. Middlemen often reject part of the output without compensation. There is also a seasonal variation in the availability of homework. Sometimes more work is available, say, before festivals, or less during the monsoon.

Very little is known about homework in rural areas. A recent case-study supported by the ILO, found that homework in rural areas mainly involves agricultural processing, such as cashwe-peeling, cotton-pod shelling, sericulture and crop and food processing. On coastal areas prawn-peeling
and fish-processing are also prevalent.

A special law on homework does not exist in India, although certain labour laws apply to homeworkers. Among these are the Minimum Wages Act of 1948, the Beedi and Cigar Workers Act of 1966 and the Beedi Workers Welfare Fund Act of 1976, Kerala Coir Workers Welfare Fund Scheme and the Kerala Handloom Workers Welfare Fund Scheme. The implementation is, however, poor. The applicability of other laws such as the Bombay Shops and Establishment Act, the Industrial Dispute Act and the Employees State Insurance Act are yet to be explored. A draft bill on homework has also been prepared by the Self Employed Women's Association (SEWA) within the framework of an earlier ILO project 'Participatory Action Research Project on the Piece-rate Producers'.

5.4. Service Workers:

In the service sector women are engaged in a number of activities: vegetable and fish vending and other petty trading, hawking, bartering, laundry service, rag and waste picking, cart-pulling, block-printing, catering and domestic service.

In 1977-8, women represented almost three quarters of domestic servants: 1.7 million as against 0.6 million males. A little less than half of them were in the rural areas. Domestic servants work either full-time for one employer or part-time for various households. Household work can be highly fragmented according to various, usually caste-specific, tasks. Sweep-
ers, cooks, ayahs, dhobis, etc. are other separate individuals performing specific tasks. Child labour is rampant in this sector too.

According to the National Commission on Self-Employed Women and Women in the Informal Sector domestic service is the most unregulated and disorganized sector. The major constraint is the absence of written contract for work and lack of protective regulation. The highly personalized nature of work further complicates the situation. Working hours are long, ranging from twelve to sixteen hours. The live-in domestic servants are on duty practically twenty-four hours a day. A draft bill on domestic workers was prepared in 1987, but it is nowhere near to being passed in the Parliament.

Scavengers and sweepers are another particularly vulnerable category. They are at the very bottom of the job hierarchy and of the caste structure in India. Strong taboos on purity and pollution often result in harassment of these workers. It is estimated that 90 per cent of the waste-picking population in India consist of women and children. These workers are exposed to various health hazards resulting from contact with waste materials. Scavengers are the lowest paid in the chain of people involved with the trade: they sell to petty traders, who sell to the wholesalers, who again sell to the recycling units.

In the fishing sector, there is a gender division of labour. Men fish and women vend, cure or process fish. Women's work, however, remains invisible. They are often excluded from the fishing cooperatives. Even when there is social protection, it rarely reaches women.
It can not be denied that the unorganised sector does not get enough protection through labour legislation. Despite the existence of labour laws, for various reasons, the worker in this sector do not get social security and other benefits, as do their counterparts in the formal sector. 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.

It is, therefore, not surprising that unorganised sectors employ a sizeable section of women workers who mainly operate on casual, part-time or seasonal basis. It should, however, be recognised that workers in the informal sectors are exploited irrespective of sex. But the women suffer more due to their socio-cultural identities discussed earlier. It has been noticed that when a certain job requires delicate handling, when it is time consuming, tedious, repetitive or hazardous, women (and sometimes children) are called upon to do it. This is because women can be paid less for such work and they are less likely to put up collective resistance to deplorable working conditions and work facilities. Interestingly, there is a special managerial preference for low-class, low-caste, backward women who remain illiterate, distressed with little or no economic security at home to challenge the employers’ authority. In payment for their ‘docility’, employers are ready to condone irregularity of time, flexibility of working hours in times of family crisis, advance loans and so on. Thus, the combination of work and family for women converges with employers’ need to recruit cheap labour.
and treating them as a reservoir of labour. All these help in perpetuating the myth that women are secondary earners and are dispensable.

Employment in the unorganised sectors has, therefore, failed to improve the socio-economic status of women. Although women’s income is found to be so vital to the well-being of poor family and its children, such earning does not disturb the family hierarchy. It has been found that employment itself does not change women’s status. It does not give them more control in the family nor does the wage provide for an independent life. Many studies on working women in India have revealed that women mostly do not decide on their own to join or withdraw from the labour market. For many of them, family crisis or poverty, resulting from male migration, chronic illness of an adult member, divorce, desertion or widowhood are the major impelling factors for joining the labour market. Ironically, however, such life-time contributions are often dismissed as ‘inferior’ and, hence, they are hardly absolved from household responsibilities.

5.5. Statutory safeguards:

Unorganised labour system has not been defined by labour legislations but it is in existence in the society from the times immemorial in its various forms. Bonded labour system is one of the crude form of unorganised labour. To eradicate this social evil from the society, our government has taken various steps in this direction by way of making legislative provisions. Accordingly, it passed an Act3 in order to provide protection to the

less privileged who have been subjected to lead the life of serfdom and slavery in the form of unorganised labour. The Act was legislated in view of the goals enshrined in the preamble as well as in Part III and IV of our constitution. The fact remains that unorganised labourers in whatever form they are working are also human beings like us but it is unfortunate that they have been reduced to the level of sub-human being. They have the same institution as we have but they have not been treated on equal footings. They have the same urges and aspirations as we have but it is unfortunate that their freedom is curtailed everywhere and in all walks of life. They also want to lead a descent human existence but it is unfortunate that individual selfish interest is prevailing over the collective interests on account of inherent weaknesses of unorganised labour. It is unfortunate that inspite of landmark decisions of the Supreme Court, for example, Bandhua Mukti Morcha⁴ and Neeraja Chaudhary⁵, there had been an increase in the number of bonded labourers. The minimum wage programme launched for the benefits of unorganised labourers had not been effectively introduced by the State Government. No attention had been paid to provide them the necessary facilities of drinking water, medical treatment, schooling for their children and the like. They are still the oppressed, the illiterate the assetless and most neglected and uprooted people available at cheap rates. They are commanded by self-appointed unregistered, middlemen (popularly known as

⁵ Neeraja Chandhuri V. State of M. P, AIR, 1984 S.C. 1099. In this case the court held that any failure on the part of the state to implement the provisions of the Bonded Labour System (Abolition) Act, is a clear violation of Article-21 and Article 23 of the Constitution.
Thekedars or contractors). The unorganised labourers are subjected to inhuman practices and are living in appalling conditions in the society even today.

However, the Bonded Labour System (Abolition) Act, 1976 was amended in 1978 to add an explanation to include contract labour and an inter-state migrant workman as given in section 2 of Inter-State Migrant Workmen (Regulation of Employment and Condition of Service) Act, 1979 within the ambit of unorganised labour system. Further, Contract Labour (Regulation and Abolition) Act, 1970 does not provide for total abolition of contract labour but it provides for abolition by the appropriate government in appropriate cases under section 10 of the Act. It is not for the court to enquire into the question whether any workman comes within the employment of contract labour in any process, operation or in any other work in any establishment. But, it is a matter to be considered under section 10 of the Act. 6

The incidence of bonded labour are also noticed in agricultural fields where they do all agricultural works like ploughing, sawing, harvesting and cattle rearing. They are seem transporting the agricultural products on their back and carrying out instructions of their masters. There are many factors, which have contributed for the prevalence of this inhuman practice even today.

As the economy of India is predominantly agriculture-oriented, the majority of labourers are dependent on agricultural sector. A substantial part of agricultural labour force lies at the lowest rung of socio-economic ladder. They have passed their generations through socio-economic exploitations of upper caste resourceful rulers of the rural society. The laws and the so-called developmental programmes launched by the Government have not achieved the desired success to ameliorate their position.7

Freedom of association is guaranteed by the Indian Constitution providing it as a fundamental right. Here all are equal and any person can form an association. The Trade Union Act of 1926 provides for formation, registration and powers of Trade Union in industry, trade and profession. We have not thought to specially include the word ‘agriculture’ in the list thus least bringing the legal position to an equality between workers of industries and in agriculture. It is true that Trade Union leaders have failed to look to the interest of the unorganised sector. It is rightly observed that, of late, the union leaders have been finding it extremely difficult to counter the criticism that they have been involved with only those workers who are employed in organised industries and sectors and are economically better-off than a large majority of rural poor.

There is no National policy for the payment of wages and of minimum wages to unorganised labourers. Naturally, the whole affair of payment of

wages, its methods, period, deductions to be made etc., all depend upon the agreement between the owner and the middlemen who usually supplies labour. Similarly, practically there is no regulation on the time of work, leave, arbitration at the time of conflict and assurance of payment of minimum wages prescribed by government orders without stating the methods by which the breach would be dealt with. Since the labour supply especially in the off-season in the rural areas is in plenty, the interest of the labours is neglected and they are exploited by two groups of persons namely the middle men and the money-lenders.

There is no law to check this exploitative system. There are innumerable instances of contract and bonded labour in unorganised industries. Of course, there is a law to emancipate bonded labour and for their rehabilitation. But implementation of the law at the deep areas of our country without any political intention of the political parties would be impossible.\(^8\)

For industrial labours there are various welfare legislations but for unorganised labours there is no such legislation. There is complete absence of primary rules to ensure the various welfare measures to these labours, such as, there are no laws regulating men, material, implements, crop insurance, no health measures no educational and training benefits, no pension, gratuity, provident fund retirement benefit, no housing and other benefits. Sometimes State Government under the budget provisions declares some beneficial measures for them.

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It is true that only after independence, the government realised the crux of the problem of unorganised labour has shown the highest degree of awareness about the problem. Our founding fathers of the constitution incorporated Article 23 in the constitution. This frees the poor down-trodden and dump people from the curse of beggar. It constitutes a charter of freedom for the common man.

Most effective step was taken by Late Prime Minister, Indira Gandhi who had announced a new economic policy like 20-points programme on July 1, 1975 for the amelioration for the socio-economic conditions of the weaker sections of the society in which it has been proclaimed: “Bonded Labour, wherever it exists, will be declared illegal.” On the basis of this proclamation the Bonded Labour System (Abolition) Ordinance was promulgated by the President of India on October 24, 1975 which came into force throughout the country from the next day and extended its execution to the whole India. It was further amended in November 1985 to bring the contract labour and inter-state immigrant workers under the purview of the Act.

Thus survey of constitutional provisions reveal that incorporation of Articles 17, 23 and 24 under national charter furnish us the guarantee that

9. Article 23 of Indian Constitution provides that "Traffick in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law".


11. A.K. Gopalan, V. State of Madras, AIR 1961, Sc.21
individual interest even of the poorest of the poor would be safeguarded and they would be freed of age old practice in our country. Efforts have been made by the founding fathers of our constitution to bring a balance between individual interests on the one hand and social and public interests on the other.

The problems of agricultural labourers are attracting the governmental efforts, towards amelioration or working conditions, to put them on the footing of industrial labourers through different enactment’s.

The effectiveness of the governmental measures to uplift the agricultural labourers has not achieved up to a mark success, due to some inherent problems of agricultural set up in India, the fragmented, uneconomic holding, non-mechanised agricultural operations dispersed and unorganised labour force, participatory agricultural activities, lack of employer-employee relationship and lack of alternative employment are the different variables which are responsible for comparatively deplorable conditions of the agricultural labourers.13

The existing labour legislations and developmental schemes have been by and large proved to be ineffective to improve the socio-economic conditions of unorganised labourers. More stringent measures are needed to eradicate social inequalities of organised and unorganised labourers. The eco-

13. Ibid.
nomic inequality should be reduced by providing resources of employment generation and prohibition of economic exploitation.

The woman's maternity function which has been accorded recognition by the Constitution under Article 42 and for which social security is provided under the ESI Act,\textsuperscript{14} and the Maternity Benefit Act,\textsuperscript{15} should be made available to the woman workers of unorganised sectors. The Government should make necessary amendments before extending them to unorganised sector and ensure effective implementation.\textsuperscript{16}

From the foregoing analysis it is very much clear that the object of the preamble of our constitution to some extent has been achieved but much more is still to be achieved. Political influences and economic and social exploitations of the have-nots by the have of our society still exist. the standards of living and wages of unorganised labourers or the weaker section of the society are yet to be raised. Inspite of various constitutional safeguards provided to the down-trodden, the problem of unemployment is still in rampant in our country which is yet to be eradicated.

The Child Labour Act does not protect children working in the unorganised sector. The Ministry of Labour did not find it necessary to include the glass industry among the list of occupations hazardous to children even though there is enough evidence to prove that glass works are very danger-

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\item[14.] Employees State Insurance Act, 1948.
\item[15.] Maternity Benefits Act 1961.
\item[16.] Supra note 12 at P.260.
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ous for children. The slate and pencil industry where children succumb to respiratory ailments working under unhealthy conditions was excluded from the purview of the Act. Similarly, lock industry was not included.\textsuperscript{17}

Childhood is the most formative period in one’s life because this is the time of learning and formation of habits. The issue of child labour, therefore, requires attention of not only legislature, executives and court but also the NGO’s, social reformists, research and academic institutes and all those who care for the growth and development of the nation. Until this problem is tackled at all fronts, the child which is considered as the “Supreme National Asset” cannot be protected from this abuse.

So far the socio-economic conditions of the stone and clay quarry workers are concerned, it has been found that their living and working conditions are miserable specially in the quarries run by the private owners. Most of them are living in their kuchha houses. Even the living and surrounding conditions of the houses provided by the employers are also very distressing. They live in small rooms of very short height without adequate arrangements of light, ventilation and protection from rough weather. The walls and roofs of such houses are made of waste material of mines. Even, many such units are without doors.\textsuperscript{18}


\textsuperscript{18} Draft Report on Socio-Economic conditions of stone and clay quarry workers, Institute of Applied Manpower Research, New Delhi, Feb. 1993, P.222.
Labour law has failed to bring about the desired results. Consequently the villages remain isolated from the main stream of national life with no facilities for proper development of the rural masses. With increasing population and limited resources the achievement of constitutional goals enshrined in Articles 38 and 39, particularly those in clauses (b) and (c) of Article 39, appears to be a far-fetched dream. Apart from in-built hurdles, lack of peoples' participation and total reliance on state machinery in the implementation process of legislation have been the prime factors behind the failure of these laws. There is therefore, greater need for involvement of people both at the time of initiating legislation as well as in the process of implementation.19

The Workmen's Compensation Act does not provide for compensation to unorganised workers for injuries arising out of and in the course of employment resulting in great hardship to them. Likewise the Employees' State Insurance Act covers only 0.4 out of 5.99 million employees in rural areas. In view of this it is suggested that both these Acts be suitably modified not only to extend their coverage but also to suit the rural conditions and socio-economic needs of agricultural wage-earners and workers of unorganised industries.20

The Maternity Benefit Act21 has an extremely limited application and rarely applied in the unorganised sector. Even though state governments are

empowered under the Act to extend provisions to the agricultural sector no step has yet been taken to do so. 22

5.6. SOCIAL SECURITY FOR WOMEN WORKERS:

Along with work security, adequate, regular income in cash and in kind, is a central need of poor women. When women cannot work because of biological circumstances (pregnancy, maternity etc.), economic crises (unemployment, debt), or calamities, there is need for social security measures. Thus, for them, in addition to work and income security, social security is an essential need. An integrated social security scheme should be designed such that it covers all the risks the poor women face. These include sickness, maternity, childcare, old age etc.

1. Child Care:

The women worker plays the triple role of a worker; a house wife and a mother and child care is often considered as the sole responsibility of the mother. The working mother is often bogged down by the burden of child care. This leads to the decline in the productivity of the mother as well as negative impact on the health of both the mother and the child. Besides, the assumption that young children are taken care of in traditional family arrangements no longer holds true. Today there are over 15 crore women

living below the poverty line and five to six crore children under six years belong to the group where mothers have to work for sheer survival.

A woman worker works for long hours, often seven days a week. She often has to walk long distances by foot or travel in crowded public transport to reach her place of work. A working mother remains exhausted and often very anxious about her child’s welfare. Child care provisions relieve the women of one of her multiple burdens, creates time and space and work opportunities for women and support her empowerment.

In the absence of adequate child care facilities, a working mother has no option but to leave the child with a slightly older sibling. A large part of sibling caregivers are girl-children-many of them not above the age when they need care and nurturing themselves. Provisions of child care facilities enable the girl child to attend school and enjoy their own childhood.

The coverage of existing state-sponsored programmes is extremely limited and does not reach even a fraction of the children in this age group. Only 12 per cent of children in the age group 0-6 take part in some form of early child care programme. In addition, such provision as exists caters largely to the 3-6 age group. The younger and more vulnerable 0-3 group is largely untouched. Also, child care services which are available for only 3-4 hours in a day do not cater to the needs of the working mother and are of not much help in lessening the burden of a working mother.
2. Maternity Entitlements:

The most productive years of a women's life are also the reproductive years of her life. In the absence of any provision for maternity leave, a women worker often has to leave her job to have a child. Poor health, additional medical expenses along with loss of employment make the women worker economically vulnerable during the period of childbirth, plunging her into a crisis of borrowing and high interest expenses. Often, she does not take adequate rest and starts working soon after childbirth with adverse effect on her health. This repeated neglect of a women's health during pregnancy and childbirth manifests itself into a high maternal mortality rate, (anemia) and poor health of the women worker.

As far as the present framework of the Indian Constitution is concerned, maternity benefit is an undisputed entitlement under the law. Mainly, two Acts govern the question of entitlements: The Maternity Benefit Act, 1961 and the Employees State Insurance Act, 1948.

3. Sickness:

Lives of women workers in the informal sector are replete with different kinds of risks including personal, occupational and family risks, derived from sickness. Sickness-of herself or of immediate family members-may result in loss of employment. It also entails additional expenses in terms of medicines and/or hospitalisation. With an increasing privatisation of the health care services, the woman worker is forced to shoulder the extra financial
burden in times of illness or injury. She, thus, has to meet these expenses by either spending her savings, borrowing from moneylenders and/or by selling or mortgaging/pledging her assets. As a result, the woman suffers reduction in her income and savings and a simultaneous rise in interest expenses. The reduction in assets eventually leads to a depletion of her income, borrowing and consequent indebtedness, thus trapping her inexorably in the vicious circle of poverty. Besides, women often put a low premium on personal health and in a scenario where resources are scarce, health of the children and other family members take precedence-debilitating her already fragile health and having a negative impact on her productivity as a worker. A strong body is the only capital that a women worker has.

4. Old Age:

Traditionally, the elderly were taken care of by the family. However, with the breaking up of the joint family, changes in the employment pattern and exodus from the rural areas, the social security needs of the elderly have become crucial. An old women worker who has no support and is totally dependent on the other for survival is very vulnerable. Widowhood further adds to her vulnerability. Social security for her has many facets. Income security is only one aspect-she is often forced to work for long hours even when her age does not permit. However, old age not only means loss or diminution of her income, it also means loss of her health and rise in the cost of medical care. A related problem is one of being lonely, helpless and dependent.
5. Risks and Crisis:

It is usually a crisis-personal, social or natural-which drives a family into the downslide towards destitution. It could be natural contingencies like floods, droughts, cyclones; or a personal loss like the death of the husband or the breadwinner of the family or events such as market crash, crop failure or cattle loss through disease. Each crisis leaves the women worker and her family weaker and more vulnerable. The main reason for such a strong negative impact is the high expenditure incurred at such times. And the lack of facilities for the poor to save for such eventualities. In the absence of micro-insurance, there is no opportunity for the worker to spread the risks over long period and provide coverage during times of financial risks.

5.7. Conclusion:

Although there are a number of laws purporting to provide basic economic and social benefits to the workers in the unorganised sector, the gains to this category of workers have been marginal. The implementation and enforcement of those legislation has so far been very inadequate. The exploitative situation and conditions are in-built into the system itself. The plethora of labour laws and committees under them - supported through Plan Funds to achieve equity and justice - have failed to make a dent. Moreover, the laws which are applicable in the organised sector have been made applicable to an entirely different capital labour environment of the unorganised sector also. The vested interest group represented by employers
or capitalists or industrialists have made every attempt to evade the provisions of various labour legislations relevant to the unorganised sector, so that the status quo is maintained and the extraction of surplus remains available. The labour movements and associations in the unorganised sector are still in the embryonic stage to lead any struggle against the dominant position of the capitalist.

Law as an instrument of change is not easy to apply and, therefore, has failed to deliver the good, as the unorganised sector is spread over a vast area and the enforcement authorities have been able to touch only the fringe of the unorganised sector. Legal sanctions are not stringent enough to act as a deterrent, as the emphasis for punitive action is not on imprisonment but on fines which too is abysmally low in relation to their income and their position in society. Professor Upendra Baxi has cited 'government lawlessness' as a major reason for the low commitment to the rule of law among the subjects. He identifies five forms of manifestation of governmental lawlessness—corruption, use of bureaucracy, systematic discriminatory enforcement of law, emergence of a privileged class which is beyond the pale of law and the default by the governments in the implementation of their statutory obligations. These manifestations apply to the labour laws applicable to the workers in the unorganised sector.

However, law alone cannot solve the problem of workers in the unorganised sector. In the absence of organisations or associations their bargaining power is very weak. Moreover, the current availability of rules and laws are completely detached from the social relations or the social reality. In this kind of situation, it is absolutely necessary that the marginalised section of the unorganised labour be provided with continuing education, social and legal awareness about their rights. There is also an urgent need for an alternate strategy to organise the workers in the unorganised sector. Moreover, the Central Government and State Governments must be pressurised to take effective steps to improve the lot of workers in the unorganised sector.

There is need for a comprehensive law regulating industrial relations that will not only simplify but also integrate the existing labour laws under a single umbrella. The jurisprudence of labour law must be extended to the underprivileged labour force to provide them social benefits and economic justice, failing which the unorganised labour force will be subjected to unmitigated hardships and indignities.

One of the terms of reference to the Second National Commission on Labour (SNCL) was to suggest an umbrella legislation for ensuring a minimum level of protection to the workers in the unorganised sector. But the draft bill proposed by the commission contained nothing more than an elaborate structure of boards from the central to the Panchayat level, registration
of the unorganised sector workers and issue of identity cards. It contained nothing concrete to ensure job protection, minimum wages and social security for them. No responsibility was fixed on the government to contribute for their social security.24

24. With a view to suggesting rationalisation of existing laws relating to labour in organised sector and evolving an umbrella legislation for unorganised sectors, the Government of India set up on 15th October, 1999 the Second National Commission on Labour under the Chairmanship of Ravindra Varma. The Commission constituted six study groups relating to review of laws and submitted its reports in 2003.