CHAPTER-VII

THE SMALL SCALE INDUSTRIAL SECTOR –VIS-À-VIS
THE UNORGANIZED SECTOR – THE WORKERS CLAIMS
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7. 1. INTRODUCTION

The Small-Scale Industrial Sector Plays a pivotal role in the Indian economy in terms of its contribution to the country’s industrial production, exports, employment and the creation of an entrepreneurial base. The sector has recorded a high growth rate since 1947 despite stiff competition from the large-scale sector.\(^1\) The rapid growth of the small-scale industries has a great relevance in our national economic and labour policies. The growth of the small sector has also improved the production of non-durable consumer goods of mass consumption as well as employment opportunity to millions of skilled and unskilled workers in the country. These industrial units are dispersed all over the country and are generally set up to satisfy the local demand for goods, which may later cater to the overall economic and global needs. The Small-Scale Industries, by investing only seven

\(^1\) Koti Reddy T., 'Problems and Prospects of Small-Scale Industrial in India'. *Man & Development* September, 2008 at 23.
to 15 per cent of the total manufacturing sector’s capital contribute to nearly one-fifth of the total industrial output and employ 35 to 40 per cent of the workers in the industrial sector.\textsuperscript{2} The small-scale sector has been showing the highest employment for each rupee worth of fixed capital. It also produces seven times the output for each rupee worth of fixed assets compared to what the large industries produce.\textsuperscript{3} The employment-output ratio is the lowest in the small-scale sector, whereas the employment-generating capacity of small sector is eight times that of the large-scale sector.

According to the census of 2001, workers have been classified into main workers and marginal workers. Main workers are those workers who work for the major part of the year (183 days or more) and marginal workers are those who work for less than six months (183 days). The date reveal that out of 340 million total workers, rural workers account for 269 (85 per cent) and urban workers for 71 million (15 per cent). Among main workers, the proportion of rural workers was about 82 per cent and that of urban workers was 18 per cent.\textsuperscript{4} Among the rural workers, about 90 percent were main workers and

\textsuperscript{3} Id at 18.
\textsuperscript{4} Id.
about 10 per cent were marginal workers, but among the urban workers, about 98 per cent were main workers and barely 2 per cent were marginal workers. The purpose of stating these figures is to draw an analysis in order to examine the source of employment for the workers in the country and the related issues.

According to the international definition accepted by the UN Economic and Social Council (ECOSOC), the term 'unorganized sector' denotes: (a) all private unincorporated enterprises or households engaged in the production and sale of goods or services, and (b) enterprises with employment size below a pre-determined threshold. The term 'unorganized workers' is defined to include persons whose employment relationship is, in law or practice, not subject to labour legislations, social protection and certain employment benefits. The term 'unorganized sector' is used to denote the aggregate of economic units engaged in the production of goods and services with the primary objective of generating employment and income for the persons engaged in the activity. These units are typically small in size and not distinguishable from the households.

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managing the activity. In the rural and urban areas in the context, the unorganized sector mainly consists of manual labour employed in small and tiny manufacturing enterprises and to some extent in medium and large scale industries.

7. 2. SMALL SCALE INDUSTRIES - BASIS FOR CLASSIFICATION

In the Industrial Policy Resolutions of 1948 and 1956, the small-scale sector was given a special role for creating employment with low capital investment. Between 1954 and 1955, the Indian Government set up the Central Small-Scale Industries Organization and the Small-Scale Industries Board which defined ‘Small-Scale Industries’ as units employing less than 50 persons, without the use of power, and with capital assets not exceeding Rs. 5 lakhs. In April 1991, the investment limit was raised to 60 lakhs for small-scale units and Rs. 75 lakhs for ancillary units. In 1997, the Government of India raised the investment limit on plant and machinery to 3 crores for the purpose of identifying industries to be considered as Small-Scale Industries. In 2000, the Government brought down the investment limit
on plant and machinery to one crore irrespective of the number of people employed or the usage of electric power.

The main branches of the small scale industry are chemical and within chemical drugs and pharmaceuticals, petrochemicals, plastics and polymers, pesticides and insecticides, dyestuffs and dye-intermediates, inorganic and organic chemicals, engineering works, food processing and agricultural products. These units offer employment opportunities to millions of workers and are regarded as industries with a high employment potential. The overall existing employment in the industry is rated around 60 million. The industry generates additional indirect employment to nearly 30 million workers in transport, distribution, sales, packaging, exports, etc. The industry is currently in a phase of transition struggling hard to adjust itself to structural changes necessitated by liberalization and reforms. The protection levels enjoyed in the form of high import duties have been drastically reduced. This transition from a protected environment to the environment of international competition has resulted in a slowdown or negative growth. The adverse situation is attributed to.-
(i) inadequate infrastructure;
(ii) high capital cost;
(iii) fragmented plant size;
(iv) expensive raw material;
(v) external competition; and
(vi) lack of research, guidance and development.

7.3. IMPACT OF LIBERALIZATION PROCESS ON EMPLOYMENT POTENTIALITY IN SMALL SCALE INDUSTRIES IN INDIA

As part of the process of liberalization, the requirement of obtaining licenses has been withdrawn on many articles, which invariably manufactured by the small and medium scale industries in India. Entrepreneurs and foreign investors are now free to set up enterprises and to carry on import of various articles. In the new environment of market driven global economy, the country's export competitiveness has affected adversely to a large extent. The
products of East Asian countries are comparatively cheaper. There is also a threat of dumping, and increase in input costs due to the depreciation of the Indian Rupee. Most of the inputs in many segments of the industry are imported from developed countries.

India's main competitive strength lies in speciality chemicals. It is clear that presently one of the main competitors of India is China, which has undoubtedly become a major force in the global petrochemicals and polymer business. There are large investments being made by foreign companies in China in the field of chemicals. In the dyestuffs and dyeintermediates industry, China is already strong in the international market. It is also now ventured in speciality chemicals, surfactants, and agrochemicals, and has emerged as the largest producer of synthetic fibre in the world. In pharmaceuticals too China has emerged as a strong competitor for India. The Small Scale Sector *inter alia* constitutes an important segment of the chemical industry and accounts for 35% of the production of chemicals and allied products. It undertakes the processing of chemicals and other

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6 For example the Chinese products of various items are flooded into the Indian market at cheaper prices.
8 Id at 86.
raw materials available from large units. The majority of production activities relates to chemicals based on downstream products, by-products and other chemicals like soaps, detergents, paints, pesticides, drugs, plastics, dyestuffs, cosmetics, rubber products, adhesives etc.\(^9\) The Small Scale Industry accounts for more than 50% of the total dyestuffs production in the Country. In drugs and pharamaceuticals, the small scale industry accounts for 40% of the total production with more than 11,000 manufacturing units. Around 70% of the total products of pharmaceutical formulations are from the small scale sector. The Small Scale Industries in the drugs and pharmaceutical industry provide employment to more than 2 lakhs workers directly. In the plastic processing industry there are nearly 1,7 lakh workers are employed nearly. In the rubber goods industry, there are nearly 6,000 units and tiny units providing employment to about more than 3 lakhs persons directly. In the surface coatings industry, i.e. paints, varnishes, etc. there are nearly 3 lakhs workers. The toiletries, cosmetics and agarbatti industry, which include toothpaste, power, mouthwash, fragrant products, cologne, hair oil, etc., there are more 10 lakhs workers employed directly. About 40% of the

\(^9\) Id. at 87.
production of these units in this sector is export oriented. Apart from these major items of industrial production, there are plethora of other industrial articles which are manufactured by the Small Scale Industries in the Country, which account for the employment in substantial number directly.

7. 4. THE SMALL SCALE INDUSTRY – THE EMPLOYMENT POTENTIALITY

Employment is the main source of livelihood and self-fulfilment for most women and men. It is critical to the way women and men live and view their lives. A well-nurtured and productive labour force contributes towards a dynamic economy and equitable society. Lack of access to employment, that is decent and remunerative, lowers self-esteem and leads to denial of basic needs of the individual and the family, and can lead to social instability. It is, therefore, important to work towards the goal of decent and remunerative work for all women and men seeking such work, in conditions of freedom, equity, security

and human dignity. The National Employment Policy (NEP) provides a policy framework for achieving the above goal.

India has witnessed an impressive and steadily rising rate of economic growth for about two decades now. The prospects of a continuation of this high economic growth in the medium term are also high. And yet, the challenge of employment, especially good quality and remunerative employment remains formidable. Although there has been a reversal of the declining trend in employment growth in the post-2000 period, there has also been a simultaneous increase in unemployment rates as employment growth has not kept pace with growth in labour supply. Unemployment rates have been high and increasing, especially amongst certain groups – such as youth, women and young graduates. Furthermore, about 10 million new entrants to the labour force are expected each year, for whom jobs would need to be generated.\textsuperscript{11}

\textsuperscript{11} Id.
Product (GDP). This implies a vast gap in incomes and productivity between agriculture and non-agriculture sectors. This is mainly due to inadequate growth of productive employment opportunities outside agriculture. The organized sector that offers work that would be considered decent, employs less than 10 per cent of the workforce and, in recent years, has been characterized by low and declining employment intensity of output growth. An overwhelming majority of workers are currently employed in the unorganized sector where most of the new jobs are also created. In addition, most new jobs that are being created in the organized sector are informal in nature. These jobs are mostly characterized by low earnings, poor conditions of work and lack of social protection and organization. A large number of workers, whether wage-employed or self-employed earn below poverty line incomes and are 'Working Poor'. While some of these developments are dictated by the trajectories of technology, demand and structural constraints in the economy, the lack of appropriate responses to the employment challenge is likely to aggravate these tendencies both directly and indirectly, and increase the existing inequalities in the labour market and in the economy.\textsuperscript{12}

\textsuperscript{12} \textit{id. at 20.}
The Government of India has ratified the ILO's Employment Policy Convention, No. 122. This Convention promotes full, productive and freely chosen employment to all women and men who are seeking work. While employment has been a concern for policymakers in India for several years and innovative programmes, including those backed by legislations, have been launched, there is still the need for an overall strategy for employment generation.\textsuperscript{13} This clearly brings out the need to go beyond special programmes and integrate employment concerns into policy-making at various levels. The crucial issue is to ensure that the employment objective is factored or mainstreamed in the country's socio-economic development strategy.

It is evident from Table I that the number of SSI units stood at 67.87 lakhs in 1990-91 and this number rose to 123.42 lakh in 2005-06. As far as the output of SSI units is concerned, it was Rs. 78,802 crores in 1990-91 and this rose considerably to Rs. 4,76,201 crores in 2005-06. The SSI units employed 158.34 lakh workers in 1990-91 and this number rose to 294.91 lakh workers in 2005-06.\textsuperscript{13} The Mahatma Gandhi National Rural Employment Guarantee Act (2005) provides only partial employment to the unemployed in the rural India annually and leaves out the rest of the population in the Country.
of the SSI units products increased from Rs. 9,664 crores in 1990-91 Rs. 1,24,417 crores in 2004-05.

**TABLE I**

PERFORMANCE OF SMALL INDUSTRIES – PRODUCTION, EMPLOYMENT AND EXPORTS

<table>
<thead>
<tr>
<th>Year</th>
<th>Total SSI Units (lakhs)</th>
<th>Fixed Investment (Rs. Crores)</th>
<th>Production in Crores</th>
<th>Employment (Lakh Persons)</th>
<th>Exports (Rs. Crore)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1990-91</td>
<td>67.87</td>
<td>93555</td>
<td>78802</td>
<td>158.34</td>
<td>9664</td>
</tr>
<tr>
<td>1991-92</td>
<td>70.63</td>
<td>100351</td>
<td>80615</td>
<td>165.99</td>
<td>13883</td>
</tr>
<tr>
<td>1992-93</td>
<td>73.51</td>
<td>109623</td>
<td>84413</td>
<td>174.83</td>
<td>17784</td>
</tr>
<tr>
<td>1993-94</td>
<td>76.49</td>
<td>115795</td>
<td>98796</td>
<td>182.64</td>
<td>25307</td>
</tr>
<tr>
<td>1994-95</td>
<td>79.60</td>
<td>123790</td>
<td>122154</td>
<td>191.40</td>
<td>29068</td>
</tr>
<tr>
<td>1995-96</td>
<td>82.84</td>
<td>125750</td>
<td>147712</td>
<td>197.93</td>
<td>36470</td>
</tr>
<tr>
<td>1996-97</td>
<td>86.21</td>
<td>130560</td>
<td>167805</td>
<td>205.86</td>
<td>39248</td>
</tr>
<tr>
<td>1997-98</td>
<td>89.71</td>
<td>133242</td>
<td>187217</td>
<td>213.16</td>
<td>44442</td>
</tr>
<tr>
<td>1998-99</td>
<td>93.36</td>
<td>135482</td>
<td>210454</td>
<td>220.55</td>
<td>48979</td>
</tr>
<tr>
<td>1999-00</td>
<td>97.15</td>
<td>139982</td>
<td>233760</td>
<td>229.10</td>
<td>54200</td>
</tr>
<tr>
<td>2000-01</td>
<td>101.1</td>
<td>146845</td>
<td>261297</td>
<td>238.73</td>
<td>69797</td>
</tr>
<tr>
<td>2001-02</td>
<td>105.21</td>
<td>154349</td>
<td>282270</td>
<td>249.33</td>
<td>71244</td>
</tr>
<tr>
<td>2002-03</td>
<td>108.49</td>
<td>162317</td>
<td>311952</td>
<td>260.21</td>
<td>86013</td>
</tr>
<tr>
<td>2003-04</td>
<td>113.95</td>
<td>170219</td>
<td>357733</td>
<td>271.42</td>
<td>97644</td>
</tr>
<tr>
<td>2004-05</td>
<td>118.59</td>
<td>178699</td>
<td>418263</td>
<td>282.57</td>
<td>124417</td>
</tr>
<tr>
<td>2005-06</td>
<td>123.42</td>
<td>118113</td>
<td>476201</td>
<td>294.91</td>
<td>N.A</td>
</tr>
</tbody>
</table>

With the emphasis given on the liberalized industrial policy, the Government has given a great deal of importance to the establishment and development of small-scale industries. Even, a number of products have been exclusively reserved for production in the small-scale sector. The study in Belgaum District reveals that these industries generally use power and small machines and employ hired workers. The different small-scale industries existing in the Belgaum District during 2002-03 are shown below indicating the size of the unit, the type of product, the total number of workers employed the worth of the goods produced in terms of money and the fixed investment made.\textsuperscript{14} However, according to the information given by Director of Industries of SSI, Belgaum, a number of SSI units were closed during the period of past decade for the reasons of non-viability. The figure is not identified. A few industries viz. carpentary, tailoring, carpet making, tent making, rope making are being run in the Hindalga Jail in the Belgaum District. This jail was built during the British Regime and

\textsuperscript{14} This information was obtained from the Director of Industries, Belgaum (2008).
invariably the prisoners of hard core and life convicts are placed in the
jail. Belgaum is also known for the large scale industrial hub in the
north Karnataka region. They include, Aluminum Industry of Aditya
Birla Group of Industries, which manufactures the aluminum sheets of
bulk quality, Chemical, Iron Industries manufacturing various types of
products, Cotton spinning mills, Ready made garment factories, Liquor
units etc.

(1) **Agro Based Units** - There are 840 units engaged in the
production of food products. Out of these a large number of units were
flour mills (600) and rice shellers (240). These units provided
employment to 4,743 persons and produced goods worth Rs. 6,456.40
lakhs. The fixed investment of these units was Rs. 1,786.65 lakhs.

(2) **Beverages** – There are 40 units engaged in the production of
beverages i.e. soda water and other soft drinks. These units gave
employment to 300 persons and produced goods worth Rs. 38.10
lakhs. The fixed investment of these units was Rs. 47.30 lakhs.
(3) **Electronics and Electrical** - There are 52 units engaged in manufacturing of various types of electronics and electrical goods such as small power generators, voltaged stabilizers, electric motors, storage batteries, electric fans, cable, switches and other related products. They were set up with capital investment of Rs. 5,678 lakhs. These units gave employment to 600 persons and produced goods worth Rs. 210.00 lakhs.

(4) **Engineering Products** - There are 90 units engaged in the manufacture of transport equipment such as oil tankers, truck-body and seats, auto parts, minor plant equipment, cycle parts etc. Belgaum is famous for truck and other auto body building in Karnataka State. These units gave employment to 1260 persons and produced goods worth Rs. 120.24 lakhs. The fixed capital investment of these units was Rs. 112.30 lakhs.

(5) **Metal Products** – This is another important industry of the district. There were 550 units engaged in the production of metal goods. These units gave employment to 2100 persons and produced
goods worth Rs. 550.65 lakhs. The fixed investment in these units was Rs. 465.15 lakhs.

(6) Foundry Products – This is also an important industry in the district and oldest surviving industry in the district. They produce wheat threshers, maize-threshers, joggery making equipment, rice-shellers and their parts, ploughs of various types, pumps, harrows, disc harrows and they spread in other towns of the neighboring districts. There were 480 units engaged in the manufacture of machinery and its parts in the district. These units gave employment to 3,200 persons and produced goods worth of 596 lakhs and the fixed investment was 436.45 lakhs.

(7) Building material products - This is another important industry of the district engaged in the manufacturing of basic iron metal goods used for the purpose of building construction. The fixed investment involved in these units amounted to Rs. 255.67 lakhs involving 80 units. These units gave employment to 923 persons and produced goods worth Rs. 348.00 lakhs.
(8) **Leather and Leather Products** – This is an important industry in the district in view of the fact that any latest leather product of foot wear manufactured by the branded companies appear in another name of same quality and colour in the shops of the district at a lesser price comparatively. There were 120 units engaged in the production of leather and leather goods i.e. leather shoes, attaché cases, leather bags etc. Set up with a capital of fixed investment of Rs. 90 lakhs and gave employment to 2400 persons and produced goods worth Rs. 240 lakhs.

(9) **Rubber and Plastic Industry** – There are 98 units engaged in production of rubber and plastic goods, tyre retreading, candle making, etc. a large number of units were engaged in tyre retreading and candle making. These units gave employment to 700 persons and produced goods worth Rs. 210,32 lakhs. The fixed investment of these units was Rs. 130.34 lakhs.

(10) **Wood Products** – There are 235 units engaged in the production of wooden furniture, boxes and pawas, Set up with a fixed
investment of Rs. 135.67 lakhs, these units gave employment to 765 persons and produced goods worth Rs. 189.60 lakhs.

(11) Chemical Products – There are 90 units engaged in the production of chemicals such as ferrous sulphate, zinc sulphate, paints, varnishes, drugs, washing soap, etc. These units gave employment to 840 persons and produced goods worth Rs. 242.54 lakhs. The fixed investment in these units was 233.42 lakhs.

(12) Repairing and Servicing Units – There were 896 units engaged in repairing and servicing in the district. Set up with a fixed capital investment of Rs. 210.54 lakhs. These units gave employment to 3336 persons and provided services worth Rs. 154.65 lakhs. The following table shows the details of the units selected with relative information.
<table>
<thead>
<tr>
<th>S. No.</th>
<th>Name of the Industry</th>
<th>Total No. of Units</th>
<th>Investment in Fixed Capital in Lakhs</th>
<th>Total No. of Workers Employed</th>
<th>Services Provided Worth in lakhs</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Agro-Based Units</td>
<td>840</td>
<td>1786.65</td>
<td>4743</td>
<td>6456.40</td>
</tr>
<tr>
<td>2</td>
<td>Beverages</td>
<td>40</td>
<td>47.30</td>
<td>340</td>
<td>38.10</td>
</tr>
<tr>
<td>3</td>
<td>Electronics &amp; Electrical</td>
<td>52</td>
<td>5,678</td>
<td>600</td>
<td>210.00</td>
</tr>
<tr>
<td>4</td>
<td>Engineering Products</td>
<td>90</td>
<td>112.30</td>
<td>1260</td>
<td>120.24</td>
</tr>
<tr>
<td>5</td>
<td>Metal Products</td>
<td>550</td>
<td>465.15</td>
<td>2100</td>
<td>550.65</td>
</tr>
<tr>
<td>6</td>
<td>Foundry Products</td>
<td>480</td>
<td>436.45</td>
<td>3200</td>
<td>596</td>
</tr>
<tr>
<td>7</td>
<td>Building Material Products</td>
<td>80</td>
<td>255.67</td>
<td>923</td>
<td>348.00</td>
</tr>
<tr>
<td>8</td>
<td>Leather &amp; Leather Products</td>
<td>120</td>
<td>98.00</td>
<td>2400</td>
<td>240.00</td>
</tr>
<tr>
<td>9</td>
<td>Rubber and Plastic Products</td>
<td>98</td>
<td>130.34</td>
<td>700</td>
<td>210.32</td>
</tr>
<tr>
<td>10</td>
<td>Wood Products</td>
<td>235</td>
<td>135.67</td>
<td>765</td>
<td>189.60</td>
</tr>
<tr>
<td>11</td>
<td>Chemical Products</td>
<td>90</td>
<td>233.42</td>
<td>840</td>
<td>242.54</td>
</tr>
<tr>
<td>12</td>
<td>Repairing &amp; Service Units</td>
<td>96</td>
<td>21.54</td>
<td>3336</td>
<td>154.65</td>
</tr>
</tbody>
</table>

Source: Director, Small Scale Units, Belgaum.
The details shown in Table II exclude the workers employed on casual and temporary basis. Most of the employers do not maintain proper muster roles purely with an intention to avoid the application of various welfare and social security labour legislations. The workers employed in the industries vary from highly skilled category to the unskilled category apart from clerical and security staff. Substantial number of units shown in the Table comes under the purview of the minimum wage notifications issued by the appropriate Government under the Minimum Wages Act, 1948. The minimum rates of wages applicable to the various categories of workers employed in the units under the Minimum Wages Act, 1948 are shown in Table III.

7. 5. 1. INDUSTRIAL CO-OPERATIVES

Co-operatives have played a significant role in economic development of the State. This movement has really proved to be a boon for the industrial as well as agricultural sectors of the State, which have acquired a marvelous achievement in the post green revolution period by availing the co-operative infrastructure. This movement has not only created ample employment opportunities for
the unemployed/underemployed rural people but have also encouraged the local enterprise which otherwise would not have been possible.

The role of industrial co-operatives in the development of industries in the basically agricultural District like Belgaum is all the more important because the people there do not invest much in industries. The members of these societies belong to weaker sections of the society mainly the weavers, black-smiths, carpenters, tanners, tailors, shoe-makers, etc. They are mostly illiterate and require subsistence employments.

In 2002-03, there were 132 co-operative societies having a membership of 12346 in the Belgaum District. These societies are the only source for the poor artisans through which they avail of the facilities such as financial assistance, supply of material, technical guidance and marketing of the products. These organizations have improved the economic conditions of the artisans and played an important role in the development and growth of industries in the district.
7. 5. 2. MINIMUM WAGES IN SMALL SCALE SECTOR IN BELGAUM DISTRICT

The basic idea behind the formulation of the Minimum Wages Act, 1948, was to prevent the exploitation of labour from the payment of unduly low wages in order to provide the worker and his family a wage at sustenance level and also to preserve his efficiency as worker. The Minimum Wages Act, 1948 (herein after referred as the Act), which covers a number of employments, both industrial and agricultural, applies not only to regular employees but also to causal labour.\textsuperscript{15} The Central and State Governments are empowered to fix and revise the minimum rates of wages in the scheduled employments from time to time under the Act.\textsuperscript{16} The Act does not define the concept of minimum wages; nor does it provide any criteria for determination of minimum wage, but only defines the term 'wages' in general.

The intention of the Act obviously was to protect the sweated labour from being deprived of minimum means required for

\textsuperscript{15} Sec. 2 (i) of the Minimum Wages Act, 1948

\textsuperscript{16} Id. at Sec. 3 (1).
maintenance of life and efficiency in a reasonable condition. The unorganized labour, presently constitute more than 300 million in India.

The object of the Act was dealt with by the Supreme Court in Y.A. Mamarde v. Authority under the Minimum Wages Act.\textsuperscript{17} The Court observed that the object of the Act as stated in the preamble is to provide for fixation of minimum wages in certain employments to prevent exploitation of ignorant or less organized or less privileged members of society by the capitalist class. The Directive Principles of State Policy direct the State to endeavour to secure to all workers, agricultural industrial or otherwise not only bare physical subsistence but a living wage and conditions of work ensuring a decent way of life and full enjoyment of leisure. The Directive Principles lay down the foundation of appropriate social structure wherein the labour will have a place of dignity legitimately due to it in view of its contribution to the progress of the national economic prosperity.\textsuperscript{18}

\textsuperscript{17} (1972) 2 SCC 108.

\textsuperscript{18} Id. at 112.
Since owners refused to allow this researcher to interview workers and staff on the premises, recourse to interviewing them outside the factory premises without the knowledge of the owner at places such as tea shops and bus stops, etc. In most cases, management comprises the owner himself. A large number of units employ only a part-time accountant to look into official documents and accounts. In most of the small-scale industrial units in Belgaum, where most of the workers are casual and any record of their employment is ever kept. Non-payment of even minimum wages to workers in the sector is quite acute and more severe than it appears. It is seen from the survey that workers are classified as skilled and unskilled depending the high or low wages paid to them. There is no evidence to indicate the actual number of people employed in each unit. The information furnished by the employer about the size and structure of employment is often found to be contradictory with the information elicited from the workers, security guards or other individuals involved in the process of functioning of the unit.
As many 140 workers are interviewed from the units depending upon its size and nature of production. It has been observed from field surveys that workers are not paid minimum wages in compliance with the statutory minimum wages fixed by the appropriate Government. In a very few cases of entrepreneurs the minimum wage is paid to the workers, that too only to skilled workers and not for unskilled workers. In case of proprietorship and partnership, the workers are often badly paid off and such situations are found in almost 80 per cent of cases. A large section of workers employed year after year as badli on casual or daily-wage basis, and are not placed on the muster rolls of the factories. Filed survey indicates that even after years in service, up to 80 per cent of workers are not made permanent.

It is very difficult to say how many workers are contract, casual or simply absent from the muster roll as it is maintained and controlled by the owners secretly. No worker or member of the public has access to the muster roll. This gross violation of the provisions under various regulatory as well as welfare labour legislations is due to poor enforcement of these legislations by the enforcement mechanism under the legislations. A handsome bribe to a corrupt official in the
labor department protects the owner at the cost of victimized workers and conciliation, in case a compliant is ever made, is resolved with the payment of an inadequate and meager amount of compensation to the workers. Adjudication of the disputes is far reaching reality for these workers. It is found in these establishments that the workers have no bargaining power due to their small numbers, lack of unity, unrecorded status of employment, unfamiliarity with labour laws and their corresponding rights, lack of union consciousness, and most importantly, acute hand-to-mouth situation. Consequently it is seen that whatever employer offers, the workers accept due to the fear of being thrown out of employment at any moment. The following Table indicates the levels of statutory minimum wages fixed under the Minimum Wages Act, 1948 by the Karnataka State and the actual wages received by the workers in the selected small scale units in the District.
<table>
<thead>
<tr>
<th>S. No</th>
<th>Name of the Industry</th>
<th>Highest Minimum (In Rs.) Per month</th>
<th>Lowest Minimum (In Rs) Per month</th>
<th>Year of Notification issued</th>
<th>Under Revised Notification in 2009 Per month</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Highest Minimum (In Rs)</td>
</tr>
<tr>
<td>1</td>
<td>Beverages</td>
<td>2484</td>
<td>2238</td>
<td>2004</td>
<td>3318.30</td>
</tr>
<tr>
<td>2</td>
<td>Automobile engineering</td>
<td>2618.80</td>
<td>2068</td>
<td>2001</td>
<td>3712.40</td>
</tr>
<tr>
<td>3</td>
<td>Metal products</td>
<td>2482.80</td>
<td>2087.80</td>
<td>1996</td>
<td>3451.40</td>
</tr>
<tr>
<td>4</td>
<td>Chemical industry</td>
<td>2610.80</td>
<td>2087.80</td>
<td>1997</td>
<td>3563.10</td>
</tr>
<tr>
<td>5</td>
<td>Electronics industry</td>
<td>3142.00</td>
<td>2233.00</td>
<td>2004</td>
<td>3976.30</td>
</tr>
<tr>
<td>6</td>
<td>Engineering industry</td>
<td>2806.18</td>
<td>2364.18</td>
<td>1997</td>
<td>3915.86</td>
</tr>
<tr>
<td>7</td>
<td>Food processing industry</td>
<td>2494.80</td>
<td>2179.80</td>
<td>2003</td>
<td>3429.10</td>
</tr>
<tr>
<td>8</td>
<td>Foundry products</td>
<td>2580.45</td>
<td>1913.45</td>
<td>2000</td>
<td>3672.15</td>
</tr>
<tr>
<td>9</td>
<td>Plywood industry</td>
<td>2195.92</td>
<td>2098.72</td>
<td>1993</td>
<td>3123.90</td>
</tr>
<tr>
<td>10</td>
<td>Rubber products</td>
<td>2688.40</td>
<td>2295.40</td>
<td>1996</td>
<td>3863.65</td>
</tr>
<tr>
<td>11</td>
<td>Pipes manufacturing industry</td>
<td>2482.80</td>
<td>2987.80</td>
<td>1996</td>
<td>3760.85</td>
</tr>
</tbody>
</table>
From the observations it is learnt that highly skilled workers in some of the selected units are paid higher than the highest minimum rate of wages fixed under the notifications ranging from Rs4000/- to Rs 4500/-.

The unskilled category workers paid on daily wage rate of Rs 70/- to Rs 80/-.

7. 5. 4. UNFAIR LABOUR PRACTICES

It has been noticed that the scheduled job of the worker is not compatible with the actual job being carried out by him. In some cases, the unskilled categories of workers such as helpers actually perform the work of the semi-skilled category of workers such as assistant machine operators. There is no proof of employment or letter of appointment, not even a muster roll. Simply to avoid Employee's State Insurance and Provident Fund contributions, the employers of the units maintain the records to show that there are only 9 employees in the unit. But actually employ more than 10 workers.

The Employees' State Insurance Act, 1948 covers factories and other

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19 The Employees Provident Fund and Misc. Provisions Act, 1952 applies to the persons employed even for a single day in any establishment wide Section 1 (3).
establishments employing 10 or more persons and the Employees Provident Fund and Misc. Provisions Act, 1952 is applicable to factories, establishments etc. employing 20 or more persons. Certain instances reveal that the muster roll is torn up every month to keep employment figures under wraps. In majority of the cases, owners take the signatures of the workers while paying the monthly wages. Nobody knows what amount is actually put in the pay register. Workers are often so desperate that they fail to realize that they are neither considered for the permanent category nor do they receive social security benefits as per the legislations although they have been working for several years. Several cases were heard in the study where the workers when requested for bonus on the eve of Diwali, the owner informed that they should work at least for 20 years to get the benefits as per the Statute. Workers lack unity among themselves to collectively fight the corrupt practices of the owners. They do not join or form any trade unions because the fear of termination hangs over them and the question of providing bread and butter to their families is very real. Many occasions the workers individually put their demands and grievances before their master, but nothing much is accomplished.
Autocratic owners are known to scold workers badly and so the exploitation continues. The majority of workers suffer from job insecurity, helplessness and desperation. In the absence of a letter of appointment or identity card workers have no proof of employment in case of dispute or illegal termination.

7.5.5. GRAVE VIOLATIONS OF WELFARE LABOUR LEGISLATIONS

It is also observed that in certain sectors of industry such as shoes making and Agro based units a group of contractors supply daily wage workers as and when required. Their wages and numbers are not specific. For these workers, the contractors distribute wages after a great deal of bargaining. Their usual pay is Rs 1600-1800 per month per worker. The contractors receive money from the factory owners on a piece-rate or commission basis. These units provide employment in the range of 8-10 persons in case of shoes-making units and 15-25 in case of agro based food units. In actual practice, it is observed and reported by the security guards, workers and employees that these units actually employ 30-50 workers in season time without showing any record.
Often workers do not supply any information pertaining to the internal workings of the industry out of fear of termination despite their keen interest in participating in an endeavour to better their working conditions. No trade union exists to protect the service conditions of these workers. On the other hand, organized management associations are active in the District to protect the interests of the employers.

In manufacturing units inbuilt safety devices are essential to prevent the accidents for the workers in day to day handling of the operations. Factory owners refuse to provide any information about the major accidents though they talk about minor injuries. It is clear that the most of the employers are comfortable in keeping the workers on casual or on temporary basis without any registers in order to avoid the statutory obligations under the Bonus, ESI, PF, Maternity and Gratuity laws. In most cases, workers are employed for long hours without basic amenities such as safe drinking water, food, urinals or even without overtime payment.
Overtime work payment, when it is given, is generally made on a single amount basis where the Minimum Wages Act, 1948 fixes it on a double amount basis. The enforcement authorities under various welfare labour legislations such as inspectors have totally failed in their jobs.

7. 5. 6. DISINTEGRATING FORCES OF LABOUR SOLIDARITY

It is also observed by this researcher that workers are divided on the lines of caste, religion, language, region, etc. Geographically Belgaum District is situated on the border of the Karnataka state and there exists a prolonged political movement between pro maratas and kannadigas for a division of the district. There exists a strong factor of regionalism between the maratas and kannadigas in the district. These disintegrating forces might have created serious obstacles in building labour solidarity in the region. This weakness is easily exploited by the factory owners. There are diametrically opposite interests between the owners and the workers.

20 Section 14 of the Minimum Wages Act, 1948 provides that where an employee, whose minimum rate of wages is fixed under the Act by the hour, by the day or by such a longer wage-period as may be prescribed, works on any day in excess of the number of hours constituting a normal working day, the employer shall pay him for every hour or for part of an hour so worked in excess at the overtime rate fixed under the Act or under any law of the appropriate Government for the time being in force, whichever is higher...
Owners allege that workers are shirkers and workers label the owners as swindlers.

There are also instances of subcontracting in certain factories such as iron, beverages, leather and building material products. These contractors employ around 10-15 workers depending upon the volume of work. These contractors receive payment from the factory owner on a piece-rate basis and the underlying advantage of this system is to avoid the excise, sales tax, income tax etc. Suppression of real facts and practices is almost a habit among factory owners.

In the course of this research, three facts emerged as being almost universal:

1. Most of the owners are suspicious about questions regarding the units, the production targets and output. In this regard, they lack professionalism. They argue that leakage of these facts makes them weak in a highly competitive market. Lack of vision and professionalism made factory owners suspect the researcher of leaking
their business loopholes, unfair and corrupt practices and exploitation of workers. They also fear about the exposure to prosecutions and its impact on the prospects of the units.

2. Lack of unity among workers and availability of cheap and surplus labour, the existing practice of paying less than the prevailing statutory minimum wages to the unskilled workers continues unabated.

3. Casual workers are the worst hit by terminations and closures and have no recourse to any protective legal regime such as the Industrial Disputes Act, 1947.

7.5.7. ABSENTEEISM AND LABOUR TURNOVER

On the basis of investigation, it is found that absenteeism rate was found between 10-25 per cent of the total workers in the selected sample units. Causes of absenteeism are reported to have been bad housing, poor working conditions, inadequate and poor diet and
unhygienic living conditions. Other reasons are rural exodus where a worker discontinues work at the time of harvesting or sowing. Owing to housing problems in urban areas and the fact that they have left their families behind in villages, workers want to visit their family as well as attend social and religious ceremonies from time to time. Sometimes, absenteeism may be due to bad habits and lack of responsibility. The degree of absenteeism is greater just after pay day because of various factors.

It is found that in 70 per cent of industrial units, around 10-15 per cent of workers leave and new workers enter jobs in most of the causal work and in few cases of semi skilled work. Such a labour turnover is sequel to deprivation from continuous employment, graded pay, bonus, leave and social security protection. The employer is also in disadvantageous position since it affect efficiency and productivity and causes obstacles in the utilization of human resources in an organized manner.
A plain reading of the provisions relating to the registration of a trade union under the Trade Unions Act, 1926 indicate a strong reason for the difficulty in forming a unit wise trade union especially in a situation like the small scale industries. Generally, in large scale units, the unions are formed by speaking to workers, organizing gate-meetings, and demanding the recognition to represent workers from the management. Plant based struggles are the key to the formation of the union. In large units, relatively, only occasionally does the professional management resort to a lockout declaration simply to refuse to recognize the union. Though there are situations where the management takes recourse to such practices, it is less frequent than in small-scale units. The cost is too high in most cases; legal procedures are elaborate, time-consuming and also restrict the right of management to arbitrarily close down the unit. Besides, the workforce is relatively large, largely skilled, experienced and difficult to replace en masse at short notice; operations cannot be shifted to other premises without large expenditure. Plant and machinery are
specialized and expensive as well. As these factors, taken together, normally ensure that the management has to adopt other than closure options if the management does not wish to negotiate with the union. Often, day-to-day harassment at the workplace, and suspension of leading members of the union is the practice adopted by the management to discourage the formation of a union. Additionally, the managements have begun to employ the casual and contract workforce as a useful instrument to negotiate tough settlements with the permanent workers. In small-scale units, workers are largely unskilled; the workforce is small and it is much easier to shift operations from one location to another. To close down and start all over again under some other name at some near-by place with new workforce is easier for small units than for the large units. Thus, the advocacy of an ‘exit policy’ for the large units does not reflect the prevalent vulnerability of workers in small-scale sector; it has only added to the confidence and arrogance of owners in this sector who much more frequently adopt the closure policy to avoid recognizing and negotiating with a union.
Case 1

One unit in Nipani of chemical process employed 15 casual workers. In August 2005, they formed an independent union and placed a new charter of demands before the management. A month after, the union demanded the due amount of bonus for workers to be paid before Diwali Festival. The day after, the owner began to transfer finished goods from the premises to some other location and later closed down the unit on the pretext that it was unable to process orders. The workers organized demonstrations against the owner and took a morcha to the house of the owner and were arrested for it and held a gate meeting repeatedly for two weeks. However, within a month workers were taken back, without the union, on contract and with lower wages than they were earning before they formed the union. Only two workers refused to join. Ultimately the union was dismantled. With the prospects for jobs steadily declining, workers prefer available work at undetermined working conditions to be left for starvation. Though such an act on the part of the employer results in
violation of Section 9A of the Industrial Disputes Act, 1947, the unions have failed to have recourse to the privileges under the same law.\textsuperscript{21}

**Case 2**

Two units of beverages involved in the production of soft drinks owned by the same owner, employed about 22 casual workers in Belgaum. There was a 12 hour work-shift and there was no provision for ESI, minimum wages and holidays. In the first week of February, 2005 about 15 workers have formed a union and submitted a mini charter of demands before the employer, but the owner refused to accept it. It was, then, sent by registered post. Two days later, the owner called the workers to his lawyer's office to persuade them to leave the union and three days later, he closed down the factory on the ground that the lease for the premises had expired and the landlord had refused to extend it.

\textsuperscript{21} Section 9A of the ID Act, 1947 provides that no, employer, who proposes to effect any change in the conditions of service applicable to any workman in respect of any matter specified in the Fourth Schedule, shall effect such change,-

(a) without giving to the workmen likely to be affected by such change a notice in the prescribed manner of the nature of the change proposed to be effected; or

(b) within twenty-one days of giving such notice:
Provided that no notice shall be required for effecting any such change –

(a) where the change is effected in pursuance of any settlement or award; or ...
Case 3

There were two leather units owned by the same owner in Belgaum City, which has employed about 26 casual workers. There was a 12 hour work shift. No provision for ESI, minimum wages and no leave with pay days. In the first week of May, 2006 the workers made as a group and bargained with the employer for better wages and ESI benefit. But the owner out rightly rejected the demands and threatened the termination. When the activists of the workers were holding a gate-meeting outside the unit, the owner came out and began to shout at the workers. But the workers went on bargaining with the employer since they are all experienced in their jobs. Finally the employer took an oral assurance from the workers not to form the regular union and conceded only wage hike demand to a marginal extent. The workers continued in their jobs without achieving much.

Case 4

In another case, an auto-parts unit employing 18 workers in Belgaum City, the workers in 2007 approached the activists to form a union. As soon as the union was formed, the workers in the section
were shown as contract workers with the then supervisor as the contractor. The negotiations had to be carried out with the supervisor turned contractor and not with the owner of the unit. Moreover, the workers were harassed repeatedly in different ways; some were terminated and now only 9 workers remain, all still on contract. The activists were vehemently opposed the harassment and finally the agreement was signed by providing better wages and 8 days leave with holidays in a year. It may be noted here that the workers remained united and also the unit was profitable.

On the other hand, as soon as these developments were took place in the unit, the workers in other unit in the same locality numbering 12 have formed an union and went on with negotiations with their employer for similar benefits. The employer was very reluctant and finally was forced to come down for a settlement since the workers are employed in the unit for the past 10 years.
7. 5. 9. GENERAL OBSERVATIONS AND CONCLUSIONS

As these cases illustrate, the workers in small-scale units cannot be organized the way of large-scale units. Besides, an established union in a large unit can fight long, expensive legal battles and break new grounds to struggle against the corporate power. It is difficult but possible. Unions in small units do not have these choices. They cannot challenge the power in the enterprise at all. Besides, in most cases, enterprises in small-scale are either private companies or partnership firms and if a union does manage to fight legally and even win, by the time the award is delivered the unit would have vanished.

Therefore, the experience of activists suggests that to successfully form a union of workers in small-scale units, there will have to be collective struggles against the ill implementation of welfare and social security labour legislations such as the Payment of Wages Act, 1936, the Minimum Wages Act, 1948, the Factories Act, 1948 and the Payment of Bonus Act, 1965. Further most important aspect is the security of employment through the legal mechanism. The need is to
create an ambience to install in workers the confidence that struggles are possible. The focus of the struggle has to be the framework of policies and regulations and not just the individual owners of the units. The workers need to be empowered not in the manner in which the term 'empowerment' is increasingly used these days in management circles in terms of bypassing the union but in terms of ensuring that workers themselves can take up their issues and negotiate with the management for their rights.

The obstacles are real since, the workers are desperate, largely illiterate; they suffer from a real lack of confidence in themselves to carry out struggles and manage their shop-floor confrontations with the management. In the small-scale set-up, the union activists cannot simply be 'professional', concerned with matters related to the workplace. The union activists have to appreciate that the larger framework of policies and issues, instead of exclusive focus on a small, individual unit alone and the process of organizing workers in large units cannot be blindly duplicated in small-scale units.
7. 6. APPLICABILITY OF THE LABOUR LEGISLATIONS TO SMALL SCALE INDUSTRIES IN INDIA – A REVIEW

The basic framework of labour legislations, which are applicable to the small scale industries, can broadly be classified into the following, namely, (i) Freedom of Association and Regulation of Employment; (ii) Social Welfare and (iii) Social Security. The Trade Unions Act, 1926, the Industrial Disputes Act, 1947 come under the first classification. The concept of social welfare is a broad concept, which includes within its encompass the concept of social security also. The concept of social welfare broadly deals with the following aspects namely, (i) conditions of work; (ii) conditions of employment; (iii) safety at work place; and (iv) social security. Interestingly the existing framework of the major portion of prime labour legislations that deal with the aspect of social welfare exclude the aspect of social security and rather deals it under separate independent legislations. The following are the legislations which deal with the aspect of social welfare exclusively, namely.


(iii) The Inter-State Migrant Workers (Regulation of Employment and Conditions of Work) Act, 1979.


(v) The Payment of Wages Act, 1936.

(vi) The Shops and Commercial Establishments Act, 1953.\(^22\)

(vii) The Weekly Holidays Act, 1942 and

(viii) Sector Specific Welfare Legislations applicable to Beedi Workers, Construction Workers, Dock Workers, Plantation Workers, Mica Workers and Cine Workers.

The existing social security legislations in India clearly depict the very purpose of their existence namely; they intend to ensure a measure of saving as long as the worker is in the employment and ensure an income when once he is unemployed for any reason except

\(^22\) The Karnataka State in this regard is having a separate legislation, namely the Karnataka Shops and Commercial Establishments Act, 1962.
the punishment inflicted by way of disciplinary proceedings. They include the following:

(i) The Workmen's Compensation Act, 1923.
(iii) The Employees Provident Fund and Miscellaneous Provisions Act, 1952, and

Though above classified labour legislations are applicable to the small scale industries but in practice the scenario is totally different. The recent economic changes, introduced in the country in the past decade and half, in favour of liberalization, privatization and globalization have steadily aggravated the problems facing the workers and their unions in the small-scale units apart from large sectors. The human resource department in the sector is always hostile to unionization of their workforce at all levels. The new
economic policy of the country has further increased this trend in many sectors.\textsuperscript{23}

Added to this trend, the units have begun to employ the labour on casual and contract basis as a useful instrument to negotiate tough with the workers. The permanent workers are confronted with the prospect of losing their jobs as cheaper causal workers have been increasingly used as the likely substitutes for them by the management. The unions are under increasingly virulent attacks both from the management and the State, added to these miseries the Trade Unions Amendment Act, 2001\textsuperscript{24} has created further difficulties for the union to form the trade unions in these sectors. On the whole, in practice not a single regulatory, welfare or social security laws are duly enforced by the employers in the small-scale units. Perhaps the labour department of the State is hand in glove with the employers in flouting the labour legislations. The net result is the exploitation of

\textsuperscript{23} In Bangalore, which is the heart of Garment Industry ranging from small to medium sector have constantly denied the workers their right to form the unions and any effort in this regard was sternly met with arbitrary dismissals. The workers on several occasions made strikes before the Labour Department and the Ministry without any impact.

\textsuperscript{24} Section 4 of the Trade Unions Act, 1926 provides that no Trade Union of the workmen shall be registered unless at least ten per cent or one hundred of the workmen, whichever is less, engaged or employed in the establishment or industry with which it is connected are the members of such Trade Union on the date of making of application for registration.
labour under the sweated conditions. Though in practice the workers in these units are covered by the most of the labour regulatory as well as social welfare legislations, they stay away from the benefit of these legislations, a situation similar to that of various categories of unorganized sector work force in the country. The workers employed in these units can aptly be classified as unorganized workers by looking into the conditions under which they are employed. In this context a perusal of the extent of the application of the newly commenced legal regime namely, the Unorganized Workers Social Security Act, 2008 is very much relevant for the study.

7. 7. UNORGANIZED WORKERS SOCIAL SECURITY ACT, 2008

This is the second attempt made by the UPA regime in securing the interests of millions of unorganized workers in the country in contrast to the previous attempt. The then Minister for Labour and Employment presented the Unorganized Sector Workers' Social Security Bill, 2007 before the Rajya Sabha during the zero hour along with the Statement of Objects and Reasons, Financial Memorandum
and Memorandum regarding Delegated Legislation. The Bill was referred to the Parliamentary Standing Committee on Labour (2007-08). The Committee in its report extensively discussed various aspects pertaining to the unorganized workers in the country and the question of feasibility of ensuring practicable social security coverage for these workers. The Committee afforded an opportunity of being heard to the trade union organizations, employers’ organizations, NGOs and invited suggestions and comments from various Ministries and Departments of Government of India, States and Union Territories. The Committee after considering the views expressed by several representatives of Trade Unions/NGOs/Employers’ Groups/Associations, etc., and after going through the memoranda received, was convinced that ‘The Unorganized Sector Workers’ Social Security Bill, 2007 in its present form will not be able to meet the aspirations of the millions of workers in the unorganized sector. It

25 The Statement of Objects and Reasons of the Bill dated 7th September, 2007 provides that “the unorganized workers on account of their unorganized nature do not get adequate social security. Some welfare schemes are being implemented by the Central Government for specific groups of unorganized sector workers such as beedi, non-coal mine, cine workers, handloom weavers, fishermen etc. State Governments are implementing welfare programmes for certain categories of unorganized sector workers and some Non-Governmental Organizations also provide social security to categories of workers. Despite all these efforts, there is a huge deficit in the coverage of the unorganized sector workers in the matter of labour protection and social security measures ensuring the welfare and well-being of workers in the unorganized sector, such as agricultural workers, construction workers, beedi workers, handloom workers, leather workers etc. Hence, the proposed Bill aims to provide for social security and welfare of the unorganized workers and for matters connected therewith or incidental thereto.”
also reflects the unimaginative approach of the Government in bringing the Bill without proper and sufficient spadework required for such a significant piece of legislation. The Committee, therefore, proposed necessary amendments to be carried out in the title of the Bill, definition of various significant terms contained in the Bill, various clauses of the Bill relating to provision of a statutory right for national minimum benefits for all unorganized workers and coverage within specified time frame, composition of the National and State Social Security Advisory Boards, functions to be assigned to these Boards, creation of separate National Fund including method of funding, provision of staff for servicing these Boards and constitution of Grievance Redressal Machinery, etc. As these amendments have altogether changed the very nature and structure of the Bill, the Committee felt that it was prudent to enclose a copy of the Bill itself in the amended form as an Annexure to the Report (Annexure-II). The Committee urged upon the Government that, keeping in view the much-awaited welfare measures for the workers of the unorganized sector, the revised Bill may be brought before the Parliament without any further delay.26

However, the Government paid only a lip service to the vital recommendations of the Committee and introduced in substance the original Bill, which ultimately took the shape of the legislation on 30th December, 2008 entitled 'The Unorganized Workers' Social Security Act, 2008 (herein after referred to as the 'Act'). After a lapse of nearly six decades, the Government has stepped into the regime of introducing legislation for the unorganized workers apparently to ensure a measure of social security protection, which is a fundamental human right for this unprotected working class population in the country. The Act in the interpretation clause reads the definitions of 'employer', 'unorganized sector', 'unorganized sector worker', 'wage worker', 'self-employed worker' and 'home-based worker' similar to that of the approach of the National Commission for the Enterprises in the Unorganized Sector (2006). The proposed mechanism seeks to baptize the existing target oriented social welfare schemes initiated by the Central Government from time to time as a popular measure. At the outset the Act limits the provision of entire welfare schemes proposed in the Act only to the employment specific Schemes, which
are already in existence as specified in the Schedule.\textsuperscript{27} The entire Schedule I of the Act contains ten Schemes.\textsuperscript{28}

7. 8. KEY DEFINITIONS UNDER THE ACT

Section 2 (l) of the Act defines ‘unorganized sector’ means an enterprise owned by individuals or self-employed workers and engaged in the production or sale of goods or providing service of any kind whatsoever, and where the enterprise employs workers, the number of such workers is less than ten. Section 2 (m) of the Act defines ‘unorganized worker’ means a home-based worker\textsuperscript{29} self-employed worker\textsuperscript{30} or a wage worker in the unorganized sector and

\textsuperscript{27} See Section 3 (1) read with sub section (2) of the same Section of the Act.


\textsuperscript{29} Section 2 (b) of the Act defines ‘home-based worker’ means a person engaged in the production of goods or services for an employer in his or her home or other premises of his or her choice other than the workplace of the employer, for remuneration, irrespective of whether or not the employer provides the equipment, materials or other inputs.

\textsuperscript{30} Section of 2 (k) of the Act defines ‘self-employed worker’ means any person who is not employed by an employer, but engages himself or herself in any occupation in the unorganized sector subject to a monthly earning of an amount as may be notified by the Central Government or the State Government from time to time or holds cultivable land subject to such ceiling as may be notified by the State Government.
includes a worker in the organized sector who is not covered by any of the Acts mentioned in Schedule II of the Act.\footnote{Schedule II of the Act lists out the following legislations namely, (1) The Workmen’s Compensation Act, 1923. (2) The Industrial Disputes Act, 1947. (3) The Employees’ State Insurance Act, 1948. (4) The Employees’ Provident Funds and Miscellaneous Provisions Act, 1952. (5) The Maternity Benefit Act, 1961 and (6) The Payment of Gratuity Act, 1972.} Section 2 (a) of the Act defines ‘employer’ means a person or an association of persons, who has engaged or employed an unorganized worker either directly or otherwise for remuneration. ‘Organized sector’ means an enterprise which is not an unorganized sector.\footnote{See, Section 2 (f) of the Act.} “Wage worker” means a person employed for remuneration in the unorganized sector, directly by an employer or through any contractor, irrespective of place of work, whether exclusively for one employer or for one or more employers, whether in cash or in kind, whether as a home-based worker, or as a temporary or casual worker, or as a migrant worker, or workers employed by households including domestic workers, with a monthly wage of an amount as may be notified by the Central Government and State Government, as the case may be.\footnote{See, Section 2 (n) of the Act.}
The definition of 'unorganized worker' contains the expression 'organized sector' or 'formal sector' and the definition of 'unorganized sector' makes a reference to both wage worker and self-employed worker by limiting the number of workmen employed therein to less than ten. The indication is that any entity which is owned or carried on by individuals or self-employed workers employs more than ten workers, it is not an 'unorganized sector' and the probable consequence is that the Act has no application to such entity. As far as the regulatory labour laws are concerned there is a clear co-relationship between the terms 'industry' and 'factory'. The Factories Act, 1948 defines the term 'factory' from two main perspectives, namely in case if an industry is carried on with the aid of power the number of workmen to be employed is ten or more and in case if it is carried on with out the aid of power the number of workmen to be employed is twenty or more. In case if any unorganized sector activity employs nineteen workers and is carried on with out the aid power, the first casualty is that such entity is neither a factory nor an enterprise under the Act. The workers who are employed therein are neither unorganized worker nor factory workers.

34 The Trade Unions Act, 1926, The Industrial Employment (Standing Orders) Act, 1946 and the Industrial Disputes Act, 1947 are viewed as primary regulatory labour laws in the country.
may deprive many workers from the purview of the legislation. The
definition of unorganized worker includes a worker in the organized
sector who is not covered by any of the legislations mentioned in the
Schedule II of the Act. Perhaps the expression refers to workers
employed on casual, temporary or contract labour. The Workmen's
Compensation Act, 1923, the Employees' State Insurance Act, 1948
and the Employees Provident Fund and Miscellaneous provisions Act,
1952 applies in practice to such workers also.

7. 8. 1. MECHANISM UNDER THE ACT

Section 5 of the Act provides for the setting up of a National
Board to be known as the National Social Security Board with a
multipartite composition with the following main functions namely:

(i) to recommend to the Central Government
suitable schemes for different sections of
unorganized workers;

(ii) to advice the Central Government on matters
arising out of the administration of the Act;
(iii) to monitor social welfare schemes for the unorganized workers;
(iv) to review the progress of registration and issue of identity cards to the unorganized workers and
(v) to review the record keeping functions performed at the State level.

Section 6 of the Act provides for the constitution of the State Social Security Board with the same composition to that of the Central Board with similar functions. Section 8 of the Act assigns the record keeping functions relating to the legislation to the District Administration namely, the Urban Local bodies in urban areas and the District Panchayat in rural areas. These bodies are vested with the functions of registration and issuing of identity card to the unorganized worker. See, Section 10 (3) of the Act There is a provision for the constitution of Workers Facilitation Centers as and when necessary by the State Government with the assigned functions under Section 9 of the Act without specifying the hierarchy or level where they will be set up. The assigned functions are namely.-
(i) Dissemination of information on available social security schemes for the unorganized workers;

(ii) Facilitation of the filling, processing and forwarding of applications forms for registration;

(iii) Assisting unorganized workers to obtain registration from the District Administration; and

(iv) Facilitation of the enrollment of the registered unorganized workers in social security schemes.

Section 3 (1) of the Act provides for the framing of welfare schemes from time to time by the Central Government. They include: (a) life and disability cover; (b) health and maternity benefits; (c) old age protection; and (d) any other benefit as may be determined by the Central Government. Further sub section (2) provides that the schemes included in the Schedule 1 of the Act shall be deemed to be
the welfare schemes under sub-section (1). Sub section (3) enables the Central Government to amend the Schedules annexed to the Act. Any scheme notified by the Central Government may be wholly funded by the Central Government or partly funded by the Central Government and partly funded by the State Government, or partly by the Central and State Government and partly through contributions collected from the beneficiaries of the scheme or the employers as may be prescribed in the scheme by the Central Government.36 Further every scheme notified by the Central Government shall provide for such matters that are necessary for the efficient implementation of the scheme such as scope of the scheme, beneficiaries of the scheme, resources of the scheme, agencies for implementation of the scheme, redressal of grievances etc.37 The State Government Schemes may be wholly funded by the State or partly by the State and partly by the beneficiaries of the scheme or the employers as may be prescribed in the scheme by the State. Further the State Governments may also seek financial assistance from the Central Government for the schemes formulated by the State and the

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36 See, Section 4 (1) of the Act.
37 See, Section 4 (2) of the Act.
Central Government may provide such financial assistance for such period and on such terms and conditions as the case may be.38

The eligibility criteria for registration and social security benefits for the unorganized worker would depend upon the terms and conditions relating to the eligibility and contributions by the worker and the Central or State Government as the case may be as prescribed in the scheme formulated from time to time by the Central or State Government. Depending upon the eligibility the worker shall be registered and issued an identity card by the District Administration, which is unique and portable.39

At outset the entire frame work of the legislation in providing social security benefits to the unorganized worker is not certain or definite but contingent. Prima facie the Act limits the provision of entire social security benefits only to the schemes mentioned in the Schedule 1 of the Act, which are by and large are applicable to target oriented Below Poverty Line (BPL) population and employment

38 See, Section 7 of the Act.
39 Section 10 of the Act provides that the unorganized workers must have completed the age of fourteen years and have to make a self declaration confirming that he or she is an unorganized worker.
specific welfare schemes formulated under the political pronouncements made by the Government from time to time in contrast to formulation of universal social security schemes for the entire unorganized workers in the country. The very implementation of the welfare and social security benefits for the millions of exploited working class would depend on the sweet will of the Central and State Governments. There is no time bound frame work for the Central and State Governments to formulate various social security schemes as specified in the Act. The mechanism pertaining to the registration of a worker and entitlement to the benefits would depend upon the formulation of a specific social security scheme which is a contingent aspect under the legislation. One of the basic issues namely, the delivery of the social security benefits to the deserving worker is vaguely designed. The creation of ‘social security fund’ as such lacks the structured arrangement, which is crucial for providing the social security benefits for the unorganized workers.

The Ministry of Labour and Employment have notified the Unorganized Workers Social Security Rules, 2009 on 24th February,
2009.40 The Rules broadly provide for term of office of members of Board, resignation, manner of filling of vacancies, allowances of members, disposal of business, meetings quorum with one single Form containing five particulars for making application for registration of unorganized worker. The Form does not require the age, the name of the wife and other occupational details of the unorganized worker, wage worker, self-employed or home based worker.

The National Sample Survey Organization (NSSO) carried out its 61st Round sample survey in 2004-05 and its results showed that out of total workforce of 457.5 million in the country, only 62.6 million workers are employed in the organized sector and remaining 394.9 million workers in the unorganized sector. However of the total workers in the organized sector, 33.4 million workers had some kind of job and/or social security, and therefore the remaining 29.2 million workers should be treated as unorganized (often called informal) workers in the organized sector. Further, only about 1.4 million workers in the unorganized sector had some kind of job and/or social security. This means that the unorganized workers in the Indian economy stood at

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40 Section 1 (2) of the Rules provides that they shall come into force on the date of their publication in the Official Gazette.
422.6 million (i.e. 393.5 million in the unorganized sector and 29.2 million in the organized sector) as on 2004-05. These are the unprotected workers in the Indian economy.

It is clear from the scenario that the workers employed in the Small Scale Industry of various categories ranging from highly skilled to unskilled work under highly exploitative conditions and can be called as 'sweated labour' with out any protective legal regime from the point of view of regulatory as well as social security. Most of the employers in the Small Scale Industry have failed to comply with the regulatory as well as welfare labour legislations for reasons such as the cost burden and other related issues. Equally the Government laid emphasis only on the large and medium scale industries as far as the implementation of these laws is concerned. The Central Trade Organizations with strength of their bargaining power concentrated

41 'Sweating' is a relative term and it is difficult to define it precisely. From its original meaning of sub-contracting, it came to imply wages "very much lower than the normal rates prevailing throughout the country" (Evidence of Mr. Wolf before the Cave Committee in reply to Question No. 94; Cmd. 1645/1922 H.M.S.O England). The 5th Report of the Select Committee of the House of Lords on the Sweating System, stated "Although we cannot assign any exact meaning to 'sweating' the evils known by that name are shown in the foregoing pages of the Report to be:

(1) A rate of wages inadequate to the necessities of the workers or disproportionate to the work done.
(2) Excessive hours of work.
(3) The unsanitary state of the houses in which work is carried on. (5th Report, 1890. pp 1052-1063.)
over the years only on large and medium scale industries neglecting totally the plight of the workers in the small scale sector. Certainly the definition of the ‘wage worker’ as provided in the Unorganized Workers Social Security Act, 2008 covers the workers in other industries who are not effectively covered by regulatory as well as welfare labour legislations. With this it is clear that these workers have no protection from the existing welfare labour law regime. And the question remains unanswered as to how to ensure the application of the prevailing regulatory as well as welfare labour legislations to the workers in small scale sector in the era of Constitutionalism?

The history of exploitation of labour is as old as the history of civilization itself. There has been an ongoing struggle by labour and their organizations against such exploitation but it continuous in one form or the other. In the days *laissez-faire*, when industrial relations were governed by harsh law of hire and fire, the employer was the supreme master, the employment relationship was between unequals and the decision of the management was treated as sacrosanct. Developing notations of social justice and the expanding horizon of socio-economic justice, necessitated statutory protection to balance
the relationship between capital and labour the unequal partners in the industry, namely, those who invest blood and flesh against those who bring in capital. Unfortunately, the entire frame work of the labour law legislation practically revolves around the organized sector leaving totally the small sector out of its purview for various reasons.

The doctrine of equality as enshrined in the Constitution promised an egalitarian society. The Supreme Court in Minerva Mills Case42 in no uncertain terms laid down that the equality clause in the Constitution does not speak of mere formal equality before the law but embodies the concept of real and substantive equality which strikes at the inequalities arising on account of vast social and economic differentiation and is thus consequently an essential ingredient of social and economic justice. In short, the Court has equated the security clause in the Constitution so as to mean that the people of the country ought to be secured of socio-economic justice by way of a fusion of Fundamental Rights and Directive Principles of State Policy. As a matter of fact this Court has been candid enough on more occasions than one and rather, frequently to note that socialism ought

42 AIR 1980 SC 1789.
not to be treated as a concept or an ideal, but the same ought to be Practiced in every sphere of life and be treated by the law Courts as constitutional mandate since the law Courts exists for the society and required to act as a guardian-angel of the society.

As a matter of fact the socialistic concept of society is very well laid in Part III of Part IV of the Constitution and the Constitution being supreme, it is a bounden duty of the State in practice to give shape and offer reality to such concept.