(6) The Central Government shall have the power to remove difficulties that arise in giving effect to the provisions of the Scheme by an order published in the Official Gazette, not inconsistent with the provisions of the Act, as appears to it necessary or expedient for the removal of the difficulty.

Chapter IV: NATIONAL SOCIAL SECURITY AND WELFARE BOARD FOR AGRICULTURE LABOUR

Section 8. Establishment and Incorporation

With effect from such date as the Central Government may, by notification appoint, there shall be established for the purposes of this Act, a Board to be called the National Social Security and Welfare Board for Unorganised Labour.

Section 9. Composition of the Board

(1) The National Welfare Board for unorganised labour shall be constituted by the Central Government consisting of the following member organisations:
a) Central Trade Unions and Agricultural Labour Unions; National level organizations, including federation of such organizations, of unorganised sector labour including the self-employed;

b) National Level organisations of employers of unorganised sector labour;

c) Central Government Ministries, State Boards, Central Welfare Boards and Public Agencies; and

d) Experts in the area of management of insurance products and services; social security and related issues in the unorganized sector; management of finances, and other organizations and stakeholders working with the unorganized sector.

(2) The Central Government shall decide the criteria, number and names of such organisations to be represented on the National Board, with adequate representation of wage labour, self-employed labour and women representing the labour.

(3) The National Board shall work through a Secretariat.

(4) The Chairman of the National Board shall be nominated by the Central Government from amongst persons of eminence in the fields of labour welfare, management, finance, law and administration. The Member Secretary, who shall be the chief executive officer, shall be designated by the Central Government being a person not below the rank of Secretary to the Government of India.

(5) The Board shall meet as often as possible but not less than twice a year.
Section 10. Functions of the Board

The National Board shall perform the following functions:

a) Administration of this Act and formulation of policies at the national level, and shall have such powers as may be laid down to direct, co-ordinate, supervise, and monitor the functioning of State Boards and the Central Welfare Boards;

b) Review the working including auditing of the State Boards and the Central Welfare Boards every four years and make suitable recommendations to the Government(s) concerned for further improvement;

c) Manage and maintain the National Social Security and Welfare Fund, provide financial assistance to State Boards; recommend new schemes and programmes and projects for implementation through the Fund;

d) Advise the Central Government on policy matters relating to social security, and extension of schemes of social security such as ESI and EPF to agricultural labour; and health, safety and welfare of labour;

e) Assist in capacity building of the State Boards;

f) Collect, compile and publish statistics relating to the agricultural sector and undertake such promotional activities as may be decided from time to time;

f) Monitor and review the impact of existing schemes, policies and programmes of various Ministries and Departments of Government of India on the labour and make appropriate recommendations;
h) Advise the Government regarding the promotion of gainful employment opportunities and promotion of livelihood options and matters relating to welfare of labour;

i) Identify skill and training requirements for labour and to advise the government accordingly;

j) Carry out periodic surveys on the condition of work in agriculture and make suitable recommendations to the government;

k) Hold public hearings to entertain petitions submitted by the unorganized sector labour and make appropriate recommendations;

l) Advise government on special protection measures for migrant labour and their families in providing the ration cards, housing and education to their children; and

m) Provide for guidelines of periodic review of the national minimum wages fixed by the Central Government after taking into account the minimum basic needs of the wage labour and his/her family.

Section 11. Merger of existing Welfare Boards

Notwithstanding any other provision contained under any other law, the Appropriate Government may merge any existing Welfare Board/Boards constituted under any other law into the Board created under this Act.
Section 12. Secretariat of the Board

The National Board shall have a secretariat with adequate professional and other staff. The staff of the National Board shall be governed by the Central Government rules and regulations existing from time to time. The annual budget of the National Board shall be prepared by the Secretariat and placed before the full Board for approval.

Chapter V: NATIONAL SOCIAL SECURITY AND WELFARE FUND FOR AGRICULTURAL LABOUR

Section 13. Constitution and Contributions to a National Social Security and Welfare Fund

The Central Government shall create a National Social Security and Welfare Fund to which contributions shall accrue from the following sources:

a) Grants and loans from the Central Government;

b) Contributions from labour, employers and Governments in the form and manner to be prescribed in the specified National Minimum Social Security Scheme, provided that the Central government may exempt any class of labourers or employers from making their contribution under such conditions as may be specified;

c) Any tax or cess that the Central Government may impose for the purpose of providing social security for agricultural labour;
d) Any tax or cess that the Central Government may impose on commodities and/or services in lieu of employers’ contributions (which are either difficult to collect or appropriate employers in the sector are not directly identifiable). In addition to the above, contributions may also accrue from the following sources:

e) Contributions from the national financial/developmental institutions; and

f) Any voluntary contribution from individuals or institutions.

Section 14. Merger of existing Welfare Fund

Notwithstanding any other provision contained under any other law, the Appropriate Government may merge any existing Welfare Fund (s) constituted under any other law into the Fund created under this Act.

Section 15. Exemption from Income Tax

All financial contributions made by individuals and institutions to the National Social Security and Welfare Fund will be exempted from the payment of income tax under the Income Tax Act.

Section 16. Utilisation of the National Fund

All contributions accruing to the National Board shall be credited to the Fund, which shall be applied for meeting the following:
a) Expenses on the National Social Security Scheme and any other social
security schemes of the Central Government;
b) Grants to the State Boards, including for the purposes of the functioning
of the Labour Facilitation Centres;
c) Expenses on the administration of the scheme;
d) Investment in permitted schemes;
e) Any other item in connection with the administration of this Act.

Chapter VI: STATE SOCIAL SECURITY AND WELFARE BOARDS
FOR AGRICULTURAL LABOUR

Section 17. Establishment and Incorporation
With effect from such date as the State Government may, by notification
appoint, there shall be established for the purposes of this Act, a Board to be
called the State Social Security and Welfare Board for agricultural labour.

Section 18. Composition of the Board
(1) The State Welfare Board for unorganised labour shall be constituted by
the State Government consisting of the following member organisations:
a) State Trade Unions and Agricultural Labour Unions; State level
organizations, including federation of such organizations, of unorganised
sector labour including the self-employed;
b) State Level organisations of employers of unorganised sector labour;
c) State Government Ministries, State Welfare Boards and Public Agencies; and

d) Experts in the area of management of insurance products and services; social security and related issues in the unorganized sector; management of finances, and other organizations and stakeholders working with the unorganized sector.

(2) The State Government shall decide the criteria, number and names of such organisations to be represented on the State Board, with adequate representation of wage labour, self-employed labour and women representing the labour.

(3) The State Board shall work through a Secretariat.

(4) The Chairman of the State Board shall be nominated by the State Government from amongst persons of eminence in the fields of labour welfare, management, finance, law and administration. The Member Secretary, who shall be the chief executive officer, shall be designated by the State Government being a person not below the rank of Secretary to that State.

(5) The Board shall meet as often as possible but not less than twice a year.

Section 19. Functions of the State Board

The State Board shall perform the following functions:
a) Administration of this Act and formulation of policies at the State level, and shall have such powers as may be laid down to direct, co-ordinate, supervise, and monitor the functioning of State Welfare Boards;

b) Review the working including auditing of the State Boards every four years and make suitable recommendations to the Government for further improvement;

c) Manage and maintain the State Social Security and Welfare Fund, provide financial assistance to State Boards; recommend new schemes and programmes and projects for implementation through the Fund;

d) Advise the State Government on policy matters relating to social security, and extension of schemes of social security such as ESI and EPF to agricultural labour; and health, safety and welfare of labour;

e) Assist in capacity building of the State Boards;

f) Collect, compile and publish statistics relating to the agricultural sector and undertake such promotional activities as may be decided from time to time;

g) Monitor and review the impact of existing schemes, policies and programmes of various Ministries and Departments of State Government on the labour and make appropriate recommendations;

h) Advise the Government regarding the promotion of gainful employment opportunities and promotion of livelihood options and matters relating to welfare of labour;
i) Identify skill and training requirements for labour and to advise the
government accordingly;

j) Carry out periodic surveys on the condition of work in agriculture and
make suitable recommendations to the government;

k) Hold public hearings to entertain petitions submitted by the labour and
make appropriate recommendations;

l) Advise government on special protection measures for migrant labour and
their families in providing the ration cards, housing and education to their
children; and

m) Provide for guidelines of periodic review of the State minimum wages
fixed by the State Government after taking into account the minimum basic
needs of the labour and his/her family.

**Section 20. Merger of existing Welfare Boards**

Notwithstanding any other provision contained under any other law, the
Appropriate Government may merge any existing Welfare Board(s)
constituted under any other law into the Board created under this Act.

**Section 21. Secretariat of the Board**

The State Board shall have a secretariat with adequate professional and other
staff. The staff of the State Board shall be governed by the State Government
rules and regulations existing from time to time. The annual budget of the
State Board shall be prepared by the Secretariat and placed before the full Board for approval.

Chapter VII: STATE SOCIAL SECURITY AND WELFARE FUND FOR AGRICULTURAL LABOUR

Section 22. Constitution and Contributions to a National Social Security and Welfare Fund

The State Government shall create a State Social Security and Welfare Fund to which contributions shall accrue from the following sources:

a) Grants and loans from the State Government;

b) Contributions from labourers, employers and Governments in the form and manner to be prescribed in the specified State Minimum Social Security Scheme, provided that the Central government may exempt any class of labourers or employers from making their contribution under such conditions as may be specified;

c) Any tax or cess that the State Government may impose for the purpose of providing social security for agricultural labour;

d) Any tax or cess that the State Government may impose on commodities and/or services in lieu of employers’ contributions (which are either difficult to collect or appropriate employers in the sector are not directly identifiable).

In addition to the above, contributions may also accrue from the following sources:
e) Contributions from the State financial/developmental institutions; and
f) Any voluntary contribution from individuals or institutions.

Section 23. Merger of existing Welfare Fund

Notwithstanding any other provision contained under any other law, the Appropriate Government may merge any existing Welfare Fund(s) constituted under any other law into the Fund created under this Act.

Section 24. Exemption from Income Tax

All financial contributions made by individuals and institutions to the State Social Security and Welfare Fund will be exempted from the payment of income tax under the Income Tax Act.

Section 25. Utilisation of the National Fund

All contributions accruing to the State Board shall be credited to the Fund, which shall be applied for meeting the following:

a) Expenses on the State Social Security Scheme and any other social security schemes of the State Government;
b) Grants to the State Boards, including for the purposes of the functioning of the Labour Facilitation Centres;
c) Expenses on the administration of the scheme;
d) Investment in permitted schemes;
e) Any other item in connection with the administration of this Act.

Chapter VIII: REGISTRATION OF AGRICULTURAL LABOUR

Section 26. Eligibility for Registration and for Claiming Social Security Benefits

Every agricultural labour shall be eligible for registration subject to the following conditions:

a) He/she should have completed 14 years of age;

b) His monthly income does not exceed Rs.7000/- in 2013 (roughly equivalent to Rs. 6500/- per month recommended by the Indian Labour Conference held in December 2005); and

c) a self-declaration confirming that he/she is an agricultural labour not owning or operating a holding of more than two hectares or such limits as may be notified from time to time by the State Government; .

Section 27. Unique Identification Social Security Number

Each registered agricultural labour shall be eligible for receiving a Unique Identification Social Security Number in the form of an Identity Card issued in the name of the Board.

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5. Employment is not prohibited for a child above 14 years in agriculture as per S. 2 (a) of the proposed Act. Therefore, it is justified to confer the right upon the child above 14 years who is employed as agricultural labour to seek registration.
Section 28. Identity Card

The State Government shall decide the manner of registration of unorganized agricultural sector labour, issuance of identity cards and manner of record keeping at the district level.

Section 29. Portability of Registration

The Identity Card issued to agricultural labour shall remain valid even in the case of migration to another district in the country and the new address can be changed on application to the authority concerned.

Section 30. Cessation of Registration

The National Board shall draw up rules to decide on the period of validity of registration, renewals, cessation of registration and settlement of claims on the death of the card holder.

Section 31. Membership of Existing Welfare Boards

In case, any agricultural labour is eligible for benefit under one or more existing Central or Welfare Boards, in addition to his eligibility for the National Minimum Social Security Scheme,

(1) The agricultural labour shall retain the option of membership of the Fund with the highest benefit.
(2) The National/State Board may decide the criteria on which the agricultural labour can be eligible for benefit under the National Minimum Social Security Scheme in addition to membership in other Boards/schemes.

Chapter IX: DELIVERY OF SOCIAL SECURITY BENEFITS

Section 32. Implementation Machinery

The State Boards shall be responsible for the delivery of mandatory minimum social security benefits and shall decide the manner in which social security benefits shall have to be delivered to the registered agricultural labour. This may include tie-ups with local organisations like banks, post offices and insurance companies.

Section 33. Labour Facilitation Centers

(1) In order to extend coverage and reach the agricultural labour in remote areas, the State Boards may designate any one or more of the following at the local level as Labour Facilitation Centres:

a) Existing Labour Welfare Boards and their local offices;

b) Local Panchayati Raj Institutions (PRI);

c) Organisations of labour including trade unions, associations and co-operatives in the agricultural sector;

d) Self-help Groups (SHGs); and

e) Non-profit organisations working among the agricultural sector labour.
Such designated Labour Facilitation Centres shall perform the following functions:

a) Disseminate information on available social security schemes for the agricultural labour;

b) Facilitate the filling, processing and forwarding of application forms for registration of agricultural labour;

c) Obtain registration from the District Committee and deliver the Identity Cards to the registered agricultural labour;

d) Facilitate the enrolment of the registered agricultural labour in social security schemes; and

e) Facilitate the delivery of social security benefits through the institutions designated to deliver such social security (insurance companies, post offices, Departments of the State/ Central Government and other institutions concerned).

The State Boards shall compensate the costs incurred by the Labour Facilitation Centres for performance of its functions.

Section 34. Premium and Compensation/Benefits:

The National Board shall decide the amount and manner of payment of contribution/fee by the agricultural labour to the National Social Security Schemes.
(2) For schemes initiated by the State Boards, the State Board concerned shall decide the contributions of agricultural labour and employers.

(3) The claim of registered agricultural labour for social security benefits shall lie solely against the State Board and it shall be the responsibility of the State Board to settle the dues, if any.

**Chapter X: ENFORCEMENT AND DISPUTE RESOLUTION BODIES**

**Section 35. Agricultural Disputes Resolution Council and Agricultural Mediation Committees**

(1) The State Government shall, by rules, constitute Agricultural Dispute Resolution Council [hereinafter referred as ADRC] at District level and Agricultural Mediation Committees [hereinafter referred as AMC] at an appropriate level below the district level *i.e.*, Block/ Tehsil/ Mandal level, for resolution of disputes relating to the non observance of provisions of this Act arising amongst the agricultural labour, employers, Labour Facilitation Centres and State Boards.

(2) The Composition of the ADRCs and AMCs shall be tripartite and consist of an officer designated by the State Government to be the Member Secretary, one person nominated from the most representative of membership-based organisations of the agricultural labour in that State, having membership in the district, and a person nominated from the most representative organisation of employers’ organisations in the agricultural
sector in the State. The State government, may, if it thinks fit, appoint two persons as assessors to advice the AMC on the proceedings before it.

(3) When there is a complaint regarding sexual harassment, the AMC/ADRC shall co-opt two other members from the Panchayats/local bodies, who shall be women, at the time of dealing with such complaints. The AMC/ADRC, if satisfied that a case of sexual harassment is established, direct the employer to ensure that necessary action is taken against the person guilty of such conduct.

(4) The honorarium and/or the allowances to be paid to the labour and employers representatives on the ADRC shall be determined by the State Government.

(5) The persons to be appointed as members from each of the categories specified in sub-section (2), the term of office and other related conditions, the procedure to be followed in the discharge of their functions, conduct of meetings, periodicity of meetings and the manner of filling vacancies among the members of the AMC/ADRC, shall be such as may be prescribed by the State Government.

(Note: In order to determine the most representative organisation, membership figures including the verification of trade unions carried out by the CLC may be relied upon.)
Section 36. Functions and Powers of the Agricultural Mediation Committee and Agricultural Dispute Resolution Council

(1) Any agricultural labour or employer or an organisation representing such labour or Labour Facilitation Centres or the State Board may raise a dispute relating to the non-observance of provisions of this Act by filing a complaint before the Mediation Committee in the manner prescribed by the State Government. The ADRC may also take *suo moto* cognizance of such disputes.

(2) Every complaint so filed shall be deemed to be a dispute under this Act notwithstanding that such a complaint had not been referred to the employer at the first instance, and been rejected.

(3) The status of employment of agricultural labour in the dispute raised before the AMC or ADRC shall not be affected merely for the reason that a complaint regarding non observance of provisions of this Act has been raised before the ADRC or AMC.

(4) (a) Upon reference of a dispute, the AMC shall proceed to arrive at a mediated settlement. The Agriculture Mediation Committee shall, for the purpose of bringing about a settlement of the dispute, without delay, investigate the dispute and all matters connected therewith, and may do all such things as they think fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.
(b) The inspectors appointed under the Minimum Wages Act, 1948, shall assist the AMC/ADRC in their duties and shall carry such investigation of complaints as required by the AMC/ADRC.

(c) Where the AMC/ADRC apprehends violation of the provisions of this Act the inspectors may be directed to investigate and report the matter expeditiously.

(5) The AMC/ADRC or the inspectors designated for this purpose under sub-Section 4(b) above may for the purpose of investigating the dispute, after giving reasonable notice, enter the premises to which the dispute relates. The AMC shall also have the powers under the Code of Civil Procedure, 1908 to enforce the attendance of parties, compel the production of documents and material objects.

(6) The AMC may if it thinks fit appoint one or more persons having special knowledge of the matter under consideration to advise it on the proceeding before it.

(7) The time limit for the conclusion of the proceedings of the AMC shall not exceed four weeks. Where the parties to the dispute apply in the prescribed manner, whether jointly or separately, to the AMC for the extension of such period and the member-secretary of the AMC considers it necessary or expedient to extend such period, he/she may for reasons to be recorded in writing, extend such period by such further period as he/she may think fit;
Provided that no proceedings before a AMC shall lapse merely on the
ground that the period specified under this sub section has expired without
such proceedings being completed.

(8) If the AMC is able to arrive at a mediated settlement, it shall record its
finding to such effect and shall issue such directions as considered necessary.

(9) Upon failure of such mediation proceedings, the AMC shall record its
findings and refer the dispute to the ADRC, which shall within two weeks of
receipt of reference, refer the matter to the adjudicator provided in this
section.

(10) Where a dispute is raised directly before the ADRC, the ADRC shall
ordinarily refer the dispute to the AMC below it, under whose jurisdiction
the dispute falls.

(11) In cases of disputes raised directly before it or referred to it by the AMC
under subsection (9) above, the ADRC may itself seek to bring about a
Mediated settlement.

(12) In such cases, the ADRC shall have all the powers mentioned in section
(4) and (5) specified above.

(13) If the ADRC is able to arrive at a mediated settlement, it shall record its
finding to such effect and shall issue such directions as considered necessary.

(14) In case of failure of mediation, the ADRC shall record its finding and
refer the matter directly to the Agricultural Tribunal referred to in section 31,
within 4 weeks of the reference of the dispute. Where the parties to the
dispute apply in the prescribed manner, whether jointly or separately, to the ADRC for the extension of such period and the member-secretary of the ADRC considers it necessary or expedient to extend such period, he/she may for reasons to be recorded in writing, extend such period by such further period as he/she may think fit.

Provided that no proceedings before a ADRC shall lapse merely on the ground that the period specified under this sub section has expired without such proceedings being completed.

(15) The ADRC shall also monitor the functioning of the AMCs.

(16) Where the dispute pertains to any matter covered by any law mentioned in Section 6(1), the AMC/ ADRC shall forward the complaint to the appropriate authority created under the relevant Act for adjudication.

Section 37. Constitution and Adjudication of Agricultural Tribunals

(1) The State Government shall by notification in the Official Gazette constitute Agricultural Tribunals for each district for the purpose of adjudication of disputes relating to agricultural labour under this Act.

(2) The Agricultural Tribunal shall consist of a sole member who shall be an officer of the Government not below the rank of a District Labour Officer for each district, or any officer with experience as Civil Judge or as

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6. In the considered opinion of the Researcher the Agricultural Tribunal should be of mobile nature.
Magistrate to be the Adjudicator under the section having knowledge of law relating to agricultural labour in every respect.

(3) The Agricultural Tribunal shall hold sessions in such Block/ Tehsil/ Mandal towns and with such frequency, as may be specified in the rules made in this behalf by the State Government, in order to adjudicate upon the disputes referred to it by the ADRCs at the Block/ Tehsil/ Mandal level.

(Note: No appeal has been provided for under this Act. Moving to the High Courts and Supreme Court under Art. 226 and 32 of the Constitution would of course be available).

(4) The State Government shall issue such notifications and directions as are necessary to ensure that the adjudication proceedings are concluded expeditiously with minimum loss of time and costs to the parties involved. The award of the Agricultural Tribunal shall be publicised in the manner as prescribed by the State Government.

(5) The designated department(s) of the State Government concerned shall be responsible for enforcement and implementation of the provisions of this Act.

Section 38. Punishment for Contravention of Provisions Regarding Employment of Agricultural Labour

(1) Whoever contravenes any provisions of this Act or the rules made there under, other than those made punishable under any other law, regarding the
employment of agricultural labour shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five thousand rupees, or with both, and in case of continuing contravention, with additional fine which may extend up to one hundred rupees for every day during which such contravention continues.

(2) No court shall take cognizance of an offence punishable under this Act or the abetment of any such offence, save on a complaint made by, or the previous sanction in writing of or under the authority of the State Government. No Court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the First Class shall try any offence punishable under this Act.

(3) No suit, prosecution or other legal proceeding shall lie against any person for anything done in good faith or intended to be done in pursuance of this Act or rules.

(4) No court shall take cognisance of an offence punishable under this Act unless the complaint is made within six months from the date on which the alleged commission of the offence came to the knowledge of the AMC or the ADRC concerned.

(5) Any person who commits a breach of any mediation settlement arrived at in the AMC or ADRC or final award by the Tribunal, shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both, [and where the breach is a continuing one, with a further fine
which may extend to two hundred rupees for every day during which the
breach continues after the conviction for the first] and the Court trying the
offence, if it fines the offender, may direct that the whole or any part of the
fine realized from him shall be paid, by way of compensation, to any person
who, in its opinion, has been injured by such breach.

(6) Where any money is due to an agricultural labour under a settlement or
an award, the workman himself or any other person authorized by him in
writing in this behalf, or, in the case of the death of the workman, his
assignee or heirs may, without prejudice to any other mode of recovery,
make an application to the State Government for the recovery of the money
due to him, and if the state government is satisfied that any money is so due,
it shall issue a certificate for that amount to the Collector who shall proceed
to recover the same in the same manner as an arrear of land revenue.

Chapter XI: MISCELLANEOUS

Section 39. Accounts and Audit

(a) The National Board and the State Boards shall maintain proper accounts
and other relevant records and prepare annual statements of accounts in such
form as may be prescribed.

(b) The National Board shall furnish to the Central Government, before such
date as may be prescribed, the audited copy of the consolidated account of
itself and the Funds together with the auditor’s report.
Section 40. Power to Make Rules

The Central and State governments shall have the power to make rules for the purposes of carrying out the objects of the Act.

Section 41. Savings

(1) This law will not affect the application of any other State or Central Acts which applies to the agricultural labour or to the employer under this Act. (Note: Even if the employer or establishment is covered, the agricultural labour who is not covered under the formal sector law would get benefit under this law for the matters covered here).

(2) Notwithstanding anything contained in this Act, wherever any agricultural labour is eligible for superior or better benefits under any existing law in force, the labour shall continue to be entitled for such benefits.

Section 42. Effect of Laws and Agreements Inconsistent with This Act

(1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the coming into force of this Act.
(2) Nothing contained in this Act shall be construed to preclude an agricultural labour from entering into an agreement with his/her employer for granting him/her rights or privileges in respect of any matter which are more favourable to him/ her than those to which he/she would be entitled under this Act⁷.

The above proposed Bill specifically covers following aspects in the light of justifications added herein:

4.3 Main Recommendations Relating to Conditions of Work

There are a number of laws, which are partly applicable to agricultural labour. The entitlements as provided for in the Act are bare minimum, a labour can enter into an agreement with his/her employer for granting him/her rights or privileges in respect of any matter which are more favourable to him/ her than those to which he/she would be entitled to under this Act.

The conditions of work which is prescribed for the agricultural labour include an eight-hour working day with at least half-hour break, one paid day of rest per week, a national minimum wage for employments not notified under the State's Minimum Wages Act, piece-rate wages to equal time-rated wages, employments specifically done by women to be brought

on par with employment certified as equivalent, due payment of wages in time the failure of which would attract penal interest, no illegal deduction of wages in the form of fines, right to organise, non-discrimination on the basis of gender, social origin, incidence of HIV/AIDS and place of origin; provision of adequate safety equipment, compensation for accident, protection from sexual harassment, provision of child care; provision of basic amenities at the workplace etc.\textsuperscript{8}

4.3.1 Women Labour

Women labour in the agricultural sector suffer from a number of handicaps. \textit{The Equal Remuneration Act} applies to the agricultural sector and has the object of ensuring that men and women receive equal remuneration for equal work. However, one of the reasons that this does not happen is that men and women are often segmented in different activities and activities in which women predominate are valued poorly, even in cases where work may be arduous or may require higher skills\textsuperscript{9}. An Employment Certification Committee be formed which will periodically evaluate employments in the State and bring on par with the wages in employments performed predominantly by women with employments certified as equivalent in value. This is in order to bring the wages of women on par with equivalent


\textsuperscript{9} \textit{Food Corporation of India v. Ashis Kumar Ganguly}, (2009) 7 SCC 734.
employment elsewhere. Further, to facilitate the working of the women labour there should be adequate childcare facilities made available at the local level.

One of the issues with respect to women labour is that they are vulnerable to sexual harassment. It is fundamentally the responsibility of employers to ensure that this does not happen and that the women labour are treated with dignity.\textsuperscript{10} It is also necessary to create a Complaints Committee at district and sub-district levels, within the structure of the Dispute Resolution Council and the Mediation Committees to deal with complaints concerning sexual harassment of women at the workplace. This is in line with the Supreme Court Judgment in the \textit{Vishaka and Others v. State of Rajasthan and others case}.\textsuperscript{11}

\textbf{4.3.2 Adolescent}

Adolescent is provided with the right to register as agricultural labour and be eligible for claiming benefits under this law. It is justified to do so in view of the fact that this law does not prohibit the employment of adolescent and they too deserve to be the beneficiaries therein.

\textsuperscript{10} People's Union for Civil Liberties v. Union of India, AIR [2003] SC 2363.

\textsuperscript{11} AIR 1997 SCC 3011, [\textit{per}, J.S. Verma C.J.I., Sujata V. Manohar and B.N. Kirpal. J.J.]
4.3.3 Migrant Labour

Migrant labour, especially seasonal migrants, suffer from a number of handicaps, including very poor working and living conditions. The system of contractor based recruitments is predominant, these labour are recruited against advances, and adjustments are made against their wages, which often include the contractor's commission, overcharging for provisions and interest rate. These adjustments be declared as illegal and be made subject to the dispute resolution mechanism proposed in the Bills.\textsuperscript{12}

The migrant labour contribute significantly to the agricultural economy and still their vulnerabilities and deprivations are not factored in the planning process. The promotional policies of the State ensure that migrant labour receive their due entitlement and that their basic needs are factored in the regional planning processes.

4.3.4 Disadvantaged Labour

Labour belonging to the socially deprived groups and women usually form the core of disadvantaged labour employed as bonded labour, child labour, seasonal migrants, or suffering from various forms of social exclusion and discrimination.

In the sphere of work, the Equal Remuneration Act protects labour against discrimination in wage payments. The Certification Committee is aimed at

\textsuperscript{12} Bachpan Bachao Andolan v. Union of India, (2011) 5 SCC.
protecting women labour against subtler forms of wage discrimination linked to segmentation of labour markets.\textsuperscript{13}

Although the percentage of child labour in the workforce appears to be declining, a large number of children are still engaged in full time work as wage labourers. The sectors in which children can be found to be working are both those where child labour is now prohibited as the work is deemed to be hazardous as well as others where child work is presently not prohibited. A result of increasing awareness and also the impact of promotional policies, mainly the expansion of elementary education, child labour has declined in both the prohibited and non-prohibited sectors. However, new sources of the demand for child wage labour are also rising which causes children from vulnerable households to be pushed into the labour force. There is considerable urgency to regulate and check this trend. Instead of only relying on Part II of the \textit{Child Labour (Prohibition and Regulation) Act, 1986}, suitable amendments should be made to Part III of the \textit{Act (Regulation of Conditions of Work of Children)}, so that:

(i) it would be punishable to employ any child under the age of 11 years;

(ii) no child between the age of 11 and up to 14 years can be employed in any occupation during school sessions; and otherwise for more than 4 hours a day.

\textsuperscript{13} \textit{Delhi Jal Board v. National Campaign for Dignity and Rights of Sewerage, (2011) 8 SCC 568.}
4.4 Availability of Records

For proper assessment record keeping is a method of verifying the terms and conditions of employment of the labour. A proportion of the small employers in the agricultural sector are illiterate. The process of record keeping can be quite cumbersome for such employers. At the same time, the Minimum Wage Act and the Shops and Establishments Act already prescribe some procedure for record keeping. In agriculture, however, many States provide exemptions to certain categories of employers. In all cases of agricultural employment, including in the case of casual labour, wage slips may be provided. Regular labour be provided a record of their terms and conditions of employment. The Bills that put the onus of proof on the employers, and they might, therefore, keep such records as might be necessary to verify their claims of payment.

4.5 Compensation in the Case of Injury

The wide variety of employments and the various categories of work in the agricultural sector entail varying hazards and risks. The employer should provide the labour with adequate safety equipment while handling hazardous substances and equipments.

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Further if there is any accident or occupational hazard “arising out of or in the course of employment” that results in any temporary, permanent, partial or total disablement of the labour the employer shall compensate the labour for it, which shall not be lower than the benefits provided under the National Social Security Scheme.

4.6 Implementation of Regulations and Dispute Resolution

The large scale violation of the existing laws such as the *Minimum Wages Act* is indicative of the lack of awareness on the part of the labour and the employers and also the employers' unwillingness to enforce the existing regulations. It is important that the government carries out a large scale education programme for the labour, employers and other stakeholders aimed at inculcating the importance of assuring the labour the basic dignity and minimum conditions of work.

Another set of constraints on the implementation of laws for the agricultural sector springs from the large and dispersed nature of such employments, the limited outreach of the existing labour departments, the focus of the Mediation machinery on the organised sector, and the lack of infrastructure with the implementation departments. Perhaps the biggest constraint arises from the lack of voice of the agricultural labour and their weak bargaining power. These problems can only be corrected through
concerted efforts at strengthening the bargaining capacity of these labour. One of the ways in which this can be done is by giving them due representation in the dispute resolution mechanisms and the authority to raise issues as disputes.

The Trade Unions (Amendment) Act, 2001 has made amendments to Section 4 of the Trade Unions Act, 1926, which makes it more difficult for the trade unions to work among agricultural sector labour, and to register themselves wherever there is no fixed employer-employee relationship. This amendment requires that "no trade union 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.

There is need for the constitution of Mediation Committees and Dispute Resolution Councils for agricultural labour, which are of tri-partite character. It is proposed that the State government will constitute Dispute Resolution Councils at district level and Mediation Committees at an appropriate level below the districts, i.e., Block/ Tehsil/ Mandal level, for resolution of disputes relating to the non-observance of the provisions of the Acts arising among the agricultural labour and the employers. The composition of the Dispute Resolution Councils and Mediation Committees
will be tri-partite in character and will consist of representatives of employers, labour and an officer designated by the State Government to be the member secretary.

4.7 Dispute Resolution Structure

The primary focus of the proposed dispute resolution machinery will be on Mediation. The Mediation Committee shall, for the purpose of bringing about a settlement of the dispute, without delay, investigate the dispute and all matters connected therewith or require the matters to be investigated by the Labour Inspectors under this Act, and may do all such things as they think fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute. In case of failure of Mediation, the Dispute Resolution Councils shall record its finding and refer the matter directly to an Adjudicator, within 4 weeks of the reference of the dispute. The proposal provides that the State government shall also issue such notifications and directions as are necessary to ensure that the adjudication proceedings are concluded expeditiously with minimum loss of time and costs to the parties involved.

Where the dispute pertains to any matter covered by any law mentioned in Section 4(1), the Dispute Resolution Councils shall forward the complaint to the appropriate authority created under the relevant Act for adjudication.
4.8 Provisions for Social Security

The eligibility of the labour under the scheme is to be determined subject to a ceiling on land held (two hectares) in the case of agricultural labour. Approach should be to ensure that a minimum level of social protection is seen by the labour as a statutory right and an entitlement and not simply as an *ad hoc* largesse bestowed by the government.

The statutory National Social Security Scheme ought to consist of a package of the following minimum benefits:

a) Hospitalisation benefit for the labour and his family to the tune of Rs 15,000 per year, maternity benefit to the extent of Rs 1000 to the labour/spouse, and sickness allowance for 15 days beyond three days of hospitalisation.

b) Life and disability insurance to the tune of Rs 30,000 in the event of untimely natural death of the labour; Rs. 75,000 in the event of accidental death or total disability; and Rs. 17,500 in the event of partial disability.

c) Old age cover in the form of a pension of Rs. 500 p.m. to all Below Poverty Level labour above the age of 60 years, and Provident Fund for all other registered labour\(^\text{15}\).

In drafting the proposed Bill incorporated in this Chapter the Researcher has left no stone unturned in dealing with almost every aspect relating to agricultural labour and their social security. Commencing with an attempt to define the concept of agricultural labour, all aspects like for *e.g.*, conditions of work, social security benefits, creation of Central and State Boards and contributing to the Social Security Fund proposed to be created both by Central and State Boards have been considered. More importantly, the penal consequences are also incorporated against the violations under this Bill. After all this due deliberation, it is incumbent to focus our attention on arriving at certain conclusions based on which the Researcher intends to make several suggestions in the next Chapter.