

# National database for unorganized workers (NDUW) an Appraisal

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**Abstract** - In 2018 for the first time Supreme Court directed the ministry of Labour to come out with a portal for registration of migrant workers, which will help to extending various benefits under Social security measures to migrant workers. Very soon a response came from railway minister who announced during a briefing on budget day, that Indian Railway will soon introduce a system which will make contractors divulge details of their employees and ensure a more transparent system in which will have a database of workers engaged by contractors in non- operational areas such as housekeeping, cleaning, consultancy, training and other such services and will be mandatory in labour intensive service contracts.

**Index Terms** - Computer database, Migrant Labour, Organized, Smart Cards, Social Security, Unorganised, Welfare Schemes and Workforce.

## INTRODUCTION

In India wide range of works are executed by for creation, repair and maintenance of its various assets in public sector as well as in private sectors, which are either executed through its own workers or through outsourcing them to external agencies. The external agencies work by engaging workmen classifiable under the term 'Contract Labour' for execution of contract of works. Those engage the outsourcing agencies are termed as 'Principal Employer' and the external agencies are 'Contractors' These contractors engage skilled and unskilled workers on contractual or on casual basis. The workers those are employed on casual basis or seasonal basis grouped as informal sector of workforce When the Principal Employer's works is executed through its own workers there exist direct relationship of employer-employee with the Principal Employer and the employment covers all labour Acts. In case of workers engaged by the contractors are not in a position to establish employer and employee relationship with the principal

employer. Hence, they deprived from getting any sort of benefits under labour Act and the principal employer is not obliged to extend any benefits to them, under law

India is a developing country with most of the population living in villages. Major portion of the rural population are agricultural workers with very few of them often owns a piece of land to cultivate and majority of them are workers in the lands of land lords on daily wages. It is obvious that these agricultural workers don't get wages throughout year as the most of the cultivations in India is season based and depend on monsoon rains. Hence the poor agriculture workers migrate to urban areas in search of means of their livelihood. These migrated workers form 90% of the unorganized sector of work force.

These are typically people found in remote ranges with troublesome access to markets and institutions, no education, with poor health, utilized in employment with little security and with insufficient access to gainful resources. Such attributes make the defenceless to stuns brought on by life cycle changes, financial changes and different sorts of occasions, for example, disease or awful climate conditions. The defencelessness of the poor to financial stuns can be lessened by arrangements, that secure their livelihoods, expand their human capital and help them in times of crises. However, despite the need for social security policies, it is not quickly clear that developing countries are able to implement programmes of social security.

Out of total work force of 500million in India 450 million are in unorganized sector and 5-10 million are added every year to this sector, are deprived minimum wages or any kind of social security

The term 'unorganized worker' is defined in India under Section 2(m) of the Unorganized Workers Social Security Act, 2008.

An unorganised worker is a home-based worker or a self-employed worker or a wage worker in the unorganized sector and includes a worker in the organized sector who is not covered by any of the Acts pertaining to welfare Schemes as mentioned in Schedule-II of Unorganized Workers Social Security Act, 2008.

Explanation,

- Home based worker refers to one who engages in production at his own home or at premises of his choice but not at the employer's work place, even if the employer might have provided him materials or equipment for his work.
- Self-employed worker refers to one who is not working for an employer and is engaged in an unorganised sector job earning an income below a threshold or owning land below a notified limit
- A wage worker is a person employed for a remuneration (in cash or kind) in the unorganised sector, by an employer or contractor for one or more employers, as a casual worker, or temporary worker, or migrant worker, or as domestic workers but on wage below a notified limit.
- Unorganised sector refers to a production or service oriented enterprise owned by individuals or self-employed workers and if workers are employed, then the total number of workers cannot exceed 10.

The Acts mentioned in Schedule II of the Act are

- The Workmen's Compensation Act, 1923,
- The Industrial Disputes Act, 1947,
- The Employees' State Insurance Act, 1948,
- The Employees' Provident Funds and Miscellaneous Provision Act, 1952,
- The Maternity Benefit Act, 1961 and
- The Payment of Gratuity Act, 1972.
- Thus, unorganised workers are essentially those who do not have the benefit of pension, provident fund, gratuity, maternity leave etc. and work mostly on daily / hourly wages. They are not represented by active trade unions.

The Ministry of Labour, Government of India, has categorized the unorganized labour force under four groups viz.,(i)in terms of occupation,(ii) nature of employment, (iii) specially distressed categories and (iv) service categories.

(i) Under Terms of Occupation

Small and marginal farmers, landless agricultural labourers, share croppers, fishermen, those engaged in animal husbandry, Beedi rolling, labelling and packing, building and construction workers, leather workers, weavers, artisans, salt workers, workers in brick kilns and stone quarries, workers in saw mills, oil mills, etc. come under this category.

(ii) Under Terms of Nature of Employment

Attached agricultural labourers, bonded labourers, migrant workers, contract and casual labourers come under this category.

(iii) Under Terms of Specially Distressed Category

Toddy tappers, scavengers, carriers of head loads, drivers of animal driven vehicles, loaders and unloaders come under this category.

(iv) Under Terms of Service Category

Midwives, Domestic workers, Fishermen and women, Barbers, Vegetable and fruit vendors, Newspaper vendors etc. belong to this category.

In addition to these four categories, there exists a large section of unorganized labour force such as cobblers, Hamals, Handicraft artisans, Handloom weavers, Lady Tailors, Physically handicapped self-employed persons, Rickshaw pullers, Auto drivers, Sericulture workers, Carpenters, Tannery workers, Power loom workers and Urban poor.

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Due to this lack of trade unionism in the workers of unorganized sector, they are very prone to felonious utilitarian and dysfunctional middle man's exploitation. As a result most of them deprived and not aware of many various labour laws and fundamental Constitutional rights those are guaranteed to them as citizens of India. The interstate migrant workmen constitute a major component of unorganized sector. Interstate migrant workmen usually engage in activities, such as, construction works, Quarries, brick-kilns, domestic works etc., and they face lot of exploitation and mostly deprived of the basic legal protections

THE LEGAL FRAMEWORK

Interstate Migrant workmen (Regulation of Employment and conditions of Service) Act 1979(30 of 1979) hereafter referred as Act. The Act is intended to regulate the employment of inter-state migrant workmen and to provide for their conditions of service. It applies to every establishment, and the contractor, who employ five or more. Section 12(b) prescribes that it is mandatory for employer to issue to every inter-State migrant workman, a passbook affixed with a passport size photograph of the workman and indicating in Hindi and English languages, and where the language of the workman is not Hindi or English, also in the language of the workman, —

1. the name and place of the establishment wherein the workman is employed.
2. the period of employment.
3. the proposed rates and modes of payment of wages.
4. the displacement allowance payable.
5. the return fare payable to the workman on the expiry of the period of his employment and in such contingencies as may be prescribed and in such other contingencies as may be specified in the contract of employment.

#### The Hindrance

It is the prime responsibility of the employers hiring migrant workers to make payment of displacement allowance vide Section 12 (b) (iv) equivalent to 50% of monthly wages or as prescribed by the Act, whichever is higher and payment of journey allowance including payment of wage during of the period of journey, suitable residential accommodation, medical facilities and protective clothing, payment of wages, equal pay for equal work irrespective of sex etc.

The main responsibility for enforcement of the provision of the Act lies with the Central and the State Governments/Union Territories in the establishment falling in the Central and State Sphere respectively.

The objectives of the enactment of this act proved hard in its implication. The primary reason being the onerous compliance of its rules set out in the law, as it proved burdensome and expensive for the employer to hire interstate migrant workers rather than employing the local workers. To overcome such norms imposed in the Act they use to resort unethical and illegal means to procure labour from other states.

Inter State Migration due to Debt-bondage

In some parts of western Odisha, labour been found in the debt-bondage is most prevalent form of forced labour those are being transported en-mass to different parts of country to work in brick kilns. People call this mass transport “annual Migration. The agents or middlemen lure the jobless workers in poor families and desperate couples in surrounding hamlets by giving some cash as advance for each family to buy food and clothes ahead of the local harvest festival. In return, they pledge their freedom and the workers migrate to other places to work along with their kith and kilns and spend the next six months or more, working to pay it back. In 90% of cases, they are trafficked by labour agents to work in brick kilns. The agents which describe as “loans and jobs”, that is nothing but “debt bondage”, the most prevalent form of forced labour in a country where an estimated 18 million people live in some form of modern slavery, according to the latest Global Slavery Index by Walk Free Foundation.

#### STATUS OF INTER STATE MIGRANT WORKMEN DURING COVID-19

Recollecting the incident of mishap in Aurangabad district of Maharashtra on 08 May 2020, where sixteen migrant workers were crushed to death by a goods train. This mishap occurred while these workers of a steel factory of Jalna were on their way to their native places in Chhattisgarh amid of lock down imposed by pandemic COVID-19. When these workers were in their deep sleep after walking the entire day in the scorching heat to reach their destinations. This is the plight of those workers who left their home places and migrated to urban areas in search of means of their livelihood.

This situation not exclusive to 16 migrant workers, it the present condition of all such workers who left their native places and migrated to different parts of the country. Many workers were suffering a lot during this lock down of COVID19.

A rapid telephonic survey conducted by Aajeevika Bureau in May 2021 with 195 migrant worker stagnated in Ahmadabad revealed pathetic condition of migrant workers in which most of them starving or with limited food, not getting medical treatment and facing discriminative treatment at local health centres with reduced wages or non-payment of due wages and 73% of them were in fear of contracting COVID-

19.The ruinous consequences of COVID-19, which continues to haunt the lot of migrated workers even today.

#### DATA BASE - Government Initiatives

Though the Government has been implementing some social security measures for occupational groups of workers in the unorganized sector which constitute about 93% of the total work force in the country, still majority of the workers are without any social security coverage. For example, one of the major insecurities for workers in the unorganized sector is the frequent incidences of illness and need for medical care and hospitalization of such workers and their family members. Despite the expansion in the health facilities, illness remains one of the most prevalent causes of human deprivation in India. It has been clearly recognized that health insurance is one way of providing protection to protect them against the risk of health spending leading to poverty. Many of them unable take or unwilling to take up health insurance because of its cost, or lack of perceived benefits. The situation is more than worse in rural areas. Recognizing the need for providing social security to these workers, the Central Government has introduced the Rashtriya Swasthya Bima Yojana (RSBY). Smart cards for this scheme are supplied to the insured worker on payment ₹30, with that smart card the worker will get cashless treatment in any empanelled hospitals. But majority of the workforce are not aware of this scheme Any initiative steps to recognise informal migrant workers and implement the schemes by the government or by NGOs can only be possible if there is data available for this purpose.

In 2018 for the first time Supreme Court directed the ministry of Labour to come out with a portal for registration of migrant workers, which will help to extending various benefits under Social security measures to migrant workers. Very soon a response came from railway minister who announced during a briefing on budget day, that Indian Railway will soon introduce a system which will make contractors divulge details of their employees and ensure a more transparent system in which will have a database of workers engaged by contractors in non- operational areas such as housekeeping, cleaning, consultancy, training and other such services and will be mandatory in labour intensive service contracts

The computerised system will have a database of all workers with their personal details, police verification, medical insurance, provident fund registration, identification certificate issued by the government of India, also generate identity cards for them complete with work site details, blood group, photograph and a colour- based band, based on category of labour. The workers biometrics will also be uploaded on the system. New general Conditions of Contract (GCC) for services, drafted and approved by the railway board through a committee of its executive directors with separate the terms and conditions for contractors engaged in railway works like construction of bridges, buildings, gauge conversion projects etc., By having such computerized data base it will help to implement policy to make contractors legally obligated ,not only to follow the usual labour laws like payment of minimum wages, provident fund and others, but also implementation the Maternity Benefit Act as well as the Sexual Harassment at Workplace Act just like the organised sector.

November 2020, the Finance ministry approved for creation of the National Database for Unorganized Workers (NDUW), with an aim to provide a proper platform to the workers belonging to the unorganized sector by facilitating easier and better implementation of policies for the unorganized sector. States, the Centre and individuals themselves can enrol either directly or via common service centres and post offices. Once in place, the migrants and informal sector workers will be able to enjoy seamless benefits, including social security, when the government announces anything for them. The National Informatics Centre is entrusted with preparing the technology backbone.

#### Date base – Functioning

The Ministry of Labour and Employment of India, which will work in collaboration with the state governments to register in a national computerized every informal sector workers details and each account will be linked with the 12-digit Aadhaar number and bank account by creating site in which more and more workers will be encouraged to connect to the portal. All internet kiosks in the country, even managed in private, will be authorized register the data of migrant workers through their Aadhar card, which help most of the unorganised works are uneducated who do not have any internet service or

register their data of their own. Such a database would help the central and state governments to provide reliefs at the time of calamities to the migrant workers and their family members. Apart from all the reliefs provided by the government, it helps in implementing social security initiatives and will also provide better employment opportunities. As the database will include all the workers of the unorganized sector including the migrant workers, it would ensure better implementation of government policies and ensure that no unorganized workers are left behind. Thus, the database as proposed would also help in tracking the worker's movement and would provide them to reach the welfare schemes, medical services with more and more job opportunities.

The total cost of the project is estimated to be approximately ₹.650 Crores, to rope at least 300,000 common service centres and 100,000 post offices for this exercise and the ministry assured to spend around ₹750 Crores for this.

By having a computerized database, the tracking of migrant workers becomes easy for the governments of origin as well as of destination state and implement welfare measures and extend social security provisions at the time of destitution.

As the labour laws enacted in India are complex in nature, the Second National Commission on Labour (2002), recommended the Central Government to replace 29 existing Labour Laws with New Labour Codes to simplify and modernize labour regulation in order to address the need of employment growth in the country which is a major challenge while protecting workers' rights.

The NDA government has been deterred to consolidate all the existing labour laws into four Labour Codes viz., The Code on Wages, The Industrial Relations Code, The Occupational Safety, Health and Working Conditions Code, and The Code on Social Security. Each code is drafted by amalgamating existing labour laws to remove ambiguity as well as the complexity of old obsolete laws, which has streamlined multiple central labour laws on wages and bonuses, occupation health and safety, social security and industrial relations. The codes which are going to be implemented widened the scope of definition of employee and employer, as it includes both organized and unorganized sectors and the applicability of the minimum wage not restricted only to scheduled employment rather it applies to all types of

employments including unorganized and even to migrant workers.

The social security code 2020 and the occupational safety, health and working condition code 2020 make it mandatory for the Employers/contractors of Inter-state migrant workers have to: (i) notify specified authority of both states in case of fatal accidents and serious bodily harm, (ii) ensure suitable work conditions, and (iii) extend medical check-up and other benefits like provident fund and ESI entitlements which other workers in the establishment may be entitled to. In addition, the migrant workers must also be given an option to avail benefits of the public distribution system in their native or destination state where they may be employed. The sanguinity of applicability and implementation is not possible unless a clear data is available with Government, hence the creation of a data base for unorganised migrant workers will bail out the problems in implementation of laws. Recently, Minister for Industries for state of Tamil Nadu came forward to create a digital databank of migrant workers employed in industries, particularly the Micro, Small & Medium Enterprises and hospitality sectors, across the State, which is a good initiative. It is estimated that lakhs of migrant workers from various States such as Bihar, Jharkhand, Chhattisgarh, Odisha and West Bengal are engaged in industries across Tamil Nadu.

## CONCLUSION

Major industries in the country rely on a few labour contractors for hiring workforce, and contractor secure labour from neighbouring states who live under the dent of property. In reality, when these migrant labourers are not provided with basic amenities by the contractors they take shelter in slums and their children remain unattended by parents as a result they become targets of anti-social elements. Not only that those children being lured by illegal migrants of alien nations, motivate them and engage them in offences like drug peddling and anti-national activities. It is found that many illegal migrants from Bangladesh and Sri Lanka taking shelter in India as migrant labour. Hence having a database of migrant labour, it will also help to weed out illegal migrants by the intelligent department.

The database would help in better monitoring and supervision of the policies of the government and

would ensure at the grassroots level that the benefits reach the targeted group of unorganized workers, but it should be fool proof.

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