

# INDIA

## Handbook of Labour



V.V. Giri National Labour Institute

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V.V. Giri National Labour Institute

2015

ISBN: 978-93-82902-32-4

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No. of Copies : 500

First Edition : 2015

This document can be downloaded from the Institute's website at [www.vvgnli.org](http://www.vvgnli.org)

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Printed and Published by V.V. Giri National Labour Institute,  
Sector - 24, Noida - 201301, U.P.

Printed at: Chandu Press, D-97, Shakarpur, Delhi -110092

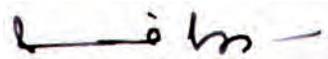
## PREFACE

India is at a very important juncture of the development process. With growth expected to scale up exponentially, the country is emerging as one of the strongest economies of the world. An imperative is to make the distribution of the fruits of this growth equitable, to make certain that the fruits of development percolate to all sections of society. One of the most vital needs in this respect is to ensure quality employment for all and address labour issues because this aspect is directly linked to the livelihood of the masses.

Questions confronting the country in relation to labour are many and varied, ranging from concerns about employment and underemployment to social security for workers to elimination of child labour. Considering the range and magnitude of India's labour issues it is important to involve different stakeholders in the process of finding solutions. This constructive engagement of stakeholders is possible if information and ideas related to labour are made accessible.

It is with this perspective that the V.V. Giri National Labour Institute has brought out this handbook, which seeks to consolidate basic information relating to key dimensions of the labour scenario in India. The idea is to provide relevant information in a simple, comprehensible way that makes it accessible to the broad spectrum of society. The handbook is being translated into different Indian languages.

Our hope is that the *Handbook of Labour* become an important reference tool in the process of evolving policies and actions relating to labour in India, and thus contributes to the country's equitable growth.



**Manish Kumar Gupta**

Director General

V.V. Giri National Labour Institute



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# India's Labour and Employment Scenario: An Overview

Dr. S.K. Sasikumar\*

Provision of quality employment is key to achieving economic and social development. Apart from its direct implications for improving individual well-being, employment is central to several social objectives like poverty reduction, productivity growth and social cohesion. The developmental accruing from quality employment range from acquiring skills to empowering women. With the creation of quality employment now regarded as vital to sustain high economic growth, the centrality of employment in public policy has assumed renewed in recent years. Given such a scenario, it is crucial that appropriate policy measures are initiated to create conditions for generating quality employment so that it contributes to faster and equitable economic development. The formulation of such policies must necessarily be based on an analysis of the emerging labour and employment situation at the national level and disaggregated across different income and social groups. This brief paper provides a situational analysis of the emerging nature and characteristics of India's labour market.

## DEMOGRAPHIC TRANSITION AND THE LABOUR FORCE

India is in the midst of a demographic transition, with declining infant mortality, declining fertility and rising life expectancy. The average annual population growth rate fell from 2.16% during 1981-91 to 1.64% during 2001-11. The effect of this demographic transition on the labour market is transmitted through the key indicator of the dependency ratio (proportion of people younger than 15 and older than 64 to the working age population, i.e. those aged 15-64) which has been consistently falling. There is likely to be a major increase in the proportion of potential economically active persons in the population in the next three decades, when the dependency ratio is expected to fall continuously. This has implications for the labour market both in the short and long terms. Strikingly, by 2020 nearly a quarter of India's population would be in the age cohort of 20-35 years.

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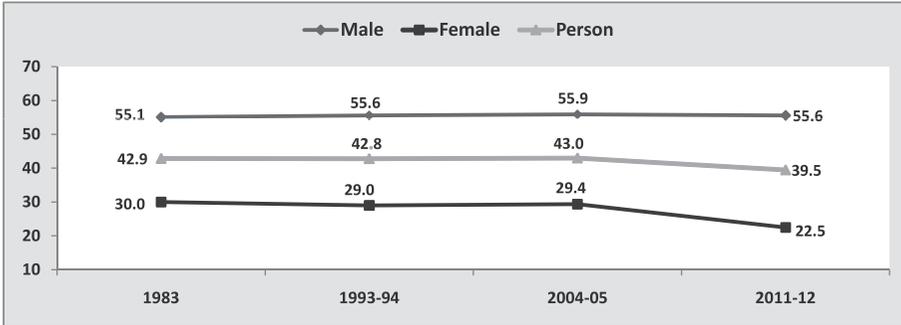
In recent years, despite the increasing size of the working age population, additions to the labour force have declined. This is primarily due to the rising enrolment of the young in secondary and higher education. While in the short run this may ease the pressures on generation of employment, in the medium to long terms there would be increasing pressure to generate employment both quantitatively (as larger numbers will enter the labour market) and qualitatively (as those who enter the labour market will have higher educational attainments as well as higher levels of aspirations and expectations from the labour market).

India's labour force in 2011-12 was 483.7 million. After being consistently pegged at 43%, the labour force participation rate (LFPR) in India fell below 40% by 2011-12, as indicated in Figure 1. Given that India is in the midst of a demographic transition, it is important to understand the trends in the LFPR for the working age population. The LFPR for the age group 15-59 years fell from 67.1 in 1993-94 to 66.6 in 2004-5 and 58.3 in 2011-12. This decline in recent years is mainly due to: (a) a sharp decline in the LFPR of the age group 15-29 years; and (b) a drastic fall in the female LFPR which has declined at double the rate of the male LFPR. The bulk of the decline in the female LFPR has occurred since 2004, mainly in the working age cohort of 15-29 years (from 37.1 in 2004-05 to 24.4% in 2011-12).

### **Employment and Unemployment**

Three reference periods are used in the National Sample Survey (NSS) on Employment and Unemployment: (i) one year; (ii) one week; and (iii) each day of the reference week. This yields three different measures of activity status of an individual: (i) usual activity status (US); (ii) current weekly status (CWS); and (iii) current daily status (CDS). In addition, the usual status is further distinguished between persons who are: (a) engaged in the activity for a relatively long part of the 365 days preceding the date of survey; or (b) remaining persons who were engaged in that activity for at least 30 days during the reference period of 365 days. These are referred to as usual principal status and usual subsidiary status, respectively. Finally, the usual principal and subsidiary status (UPSS) consists of both categories of persons, i.e. (a) and (b).

**Figure 1: Labour Force Participation Rate (UPSS) in India: 1983 to 2011-12**



Source: NSSO (various years).

Explanations provided for the declining female LFPR range from increasing educational enrolment, improvement in the earnings of male workers that discourages women's economic participation, and lack of employment opportunities at certain levels of skills and that discourage educated women from seeking work. In fact, concerns were also raised about whether women's work had been appropriately captured and even about the accuracy of the

### EMPLOYMENT GROWTH

A major challenge faced by the Indian economy is the lack of adequate employment generation; in fact, employment growth during the current decade has been much lower than the rates recorded during the two previous decades (see Table 1). Such deceleration in employment growth is visible across spatial and gender differentials.

**Table 1: Growth of Employment (UPSS): 1983 to 2005-12**

Years	Rural			Urban			Total		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
1983-94	1.92	1.39	1.72	3.14	3.38	3.19	2.21	1.64	2.02
1994-2005	1.40	1.54	1.45	3.10	3.30	3.14	1.86	1.81	1.84
1983-2005	1.65	1.47	1.58	3.12	3.34	3.17	2.03	1.73	1.93
2005-12	1.06	-2.76	-0.22	2.54	1.07	2.23	1.51	-2.04	0.44

Source: NSSO (various years).

## LABOUR MARKET DUALITY

The persistent duality between organised and unorganised sectors (based on the definition of enterprise size, the organised sector being as consisting of and establishments which have more than 10 workers) and between formal and informal work (based on regularity of employment and access to social security) has been a matter of concern, particularly since the 1990s. In India the overwhelming proportion of workers are employed in the unorganised sector, with nearly 83% in 2011-12, albeit with a declining trend during the last decade (refer Table 2). While the total employment in the organised sector grew from 38.89 million in 1999-2000 to 81.6 million in 2011-12, the informal jobs within the organised sector increased from 15.95 million to 47.20 million during the same period. This indicates that an overwhelming majority (nearly three-fourth) of the new jobs generated in the organised sector in the last decade are informal in nature; at present informal jobs constitute 58% of the organised sector employment. This trend is clearly in organised manufacturing where there has been a sharp increase in temporary and contractual jobs, which increased from 7.6% in the 1970s to 13.2% in 1995-6 to 33.9% in 2010-11.

**Table 2: Total Workers in India by Organised/Unorganised Sector and Formal/Informal Workers: 1999-2000 and 2011-12**

	Formal	Informal	Total
<b>1999-2000</b>			
Organised	22.94	15.95	38.89
Unorganised	1.44	356.57	358.01
<b>Total</b>	<b>24.38</b>	<b>372.52</b>	<b>396.90</b>
<b>2011-12</b>			
Organised	34.40	47.20	81.6
Unorganised	1.96	389.44	391.40
<b>Total</b>	<b>36.36</b>	<b>436.64</b>	<b>473.0</b>

Source: NSSO Rounds 2001 and 2013.

## SECTORAL DISTRIBUTION OF WORKFORCE

The long-anticipated structural transformation of the labour market—the movement of employment from the less productive

primary sector – has gained pace in recent years. From around 70% in the early 1980s, the share of agriculture in total employment declined to 60% in 1999-2000 and to 49% in 2011-12, as indicated in Table 3. More importantly, the decline has been much faster in recent years: a 4% decline was recorded during 2009-10 to 2011-12. However, the shift of workers from agriculture to manufacturing continues to be slow, with the share of the manufacturing sector remaining stagnant at 11-12% for the last three decades. The bulk of the labour force moving out of agriculture has thus been absorbed in construction and the low-end service sector in the informal economy.

Construction has now emerged as one of the most important sectors, absorbing a large number of low-educated internal migrant workers from rural areas. The share of construction in the total workforce has grown from 3.1% in 1993-94 to 10.6% in 2011-12, which is almost equal to the proportion of workers engaged in manufacturing activities in India. More strikingly, the proportion of construction workers among the non-agricultural workforce is currently 20.3%, pointing further to the role played by construction in providing employment in the context of structural transformation.

**Table 3: Share of Employment by Major Sectors (in %):  
1993-94 to 2011-12**

Sectors	1993-94	2004-05	2011-12
Agriculture and allied activities	64.8	58.5	48.9
Mining and quarrying	0.7	0.6	0.5
Manufacturing	10.5	11.7	12.8
Electricity, gas and water supply	0.4	0.3	0.4
Construction	3.1	5.6	10.6
Trade, hotels and restaurants	7.4	10.2	11.4
Transport, storage and communication	2.8	3.8	4.4
Financing, real estate, business services	0.9	1.5	2.6
Community, social and personal services	9.4	7.7	8.2

Source: NSSO (various years).

## NATURE OF EMPLOYMENT

A critical dimension of the structure of the labour market and quality of employment is provided by the status of the workforce.

The predominance of self-employment in India is an important characteristic, with over 52% workers being self-employed (refer Figure 2). The proportion of the self-employed has fallen over the last decades with the maximum decline being in rural areas, due mainly to the decline of self-cultivating farmers. The category of self-employment is a heterogeneous one, including consultants, freelance workers, professionals like doctors and lawyers in the high-end service sector as well as marginal and small farmers, street vendors, hawkers and other low-end service workers, with highly diverse income profiles. It is estimated that 85% of the self-employed are engaged in low productive and precarious occupations. On the other hand, a positive development has been the increase in the proportion of workers who report regular wage/salaried employment which has increased from 13.5% to 18% during the period from 1983 to 2011-12. However, it is important to recognise that a part of this growth is due to the increase of unprotected regular employment such as domestic service. This is reflected in the fact that 9% of those who report regular employment are present in the poorest consumption expenditure quintile in 2011-12.

**Figure 2: Status of Employment in India: 1983 to 2011-12**



Source: NSSO Rounds (various years).

Within wage employment, casual employment remains the most vulnerable, in terms of access to both employment and social security. The proportion of casual employment in India has remained constant at a relatively high level over the last three decades—at around 30% of total employment and nearly two-thirds of all wage employment. It is important to note that a large proportion of the socially disadvantaged groups such as SCs and STs are engaged

as casual wage earners. These proportions are much higher than the national average: 48% of the SCs and 38% of the STs are in casual employment in 2011-12, compared to the national average of 30% (refer Figure 3). The existing inequities between different statuses of employment become clear when we note that 42% of the poorest quintile of consumption expenditure comprise casual workers (refer Figure 4).

**Figure 3: Employment Status in India across Gender and Social Groups: 2011-12**



Source: NSSO Round 2013.

**Figure 4: Employment Status in India across Consumption Expenditure Quintiles: 2011-12**



Source: NSSO Round 2013.

## UNEMPLOYMENT SITUATION

One of the major concerns in the Indian labour market is the relatively higher youth unemployment rate, as indicated in Table

4. While the country's open unemployment rate (for all age groups) has been relatively low, the rate of unemployment amongst the youth is almost double the overall rate.

**Table 4: Unemployment Rate (CDS) across Broad Age Groups: 1993-94 to 2011-12**

	Male	Female	Total
<b>1993-94</b>			
15-24	11.4	10.8	11.2
25-34	6.5	6.7	6.6
35 & above	3.0	4.0	3.3
<b>Total</b>	<b>5.9</b>	<b>6.3</b>	<b>6.0</b>
<b>2004-05</b>			
15-24	14.5	15.7	14.8
25-34	7.8	10.4	8.5
35 & above	4.9	6.1	5.3
<b>Total</b>	<b>7.8</b>	<b>9.2</b>	<b>8.3</b>
<b>2011-12</b>			
15-24	12.9	14.7	13.3
25-34	5.4	7.4	5.9
35 & above	2.9	3.8	3.1
<b>Total</b>	<b>5.3</b>	<b>6.6</b>	<b>5.6</b>

Source: NSSO (various years).

The magnitude of the problem becomes all the more evident when one considers the high unemployment rate among the educated youth. The demographic composition of the population, while providing a window of opportunity, could become a serious issue if jobs of adequate quality are not made available to the increasingly educated young entrants to the labour market (refer Table 5).

**Table 5: Percentage of Unemployment Rates for Different Levels of Education, 2011-12**

Educational Standard	Age 15-29	Age 15-59
Illiterate	4.6	4.9
Below Primary	4.3	4.1
Primary	7.8	7.4
Middle	16.0	15.8
Secondary	14.4	14.6
Higher Secondary*	20.2	20.1
Graduate and above	32.7	33.1
<b>Total</b>	<b>100.0</b>	<b>100.0</b>

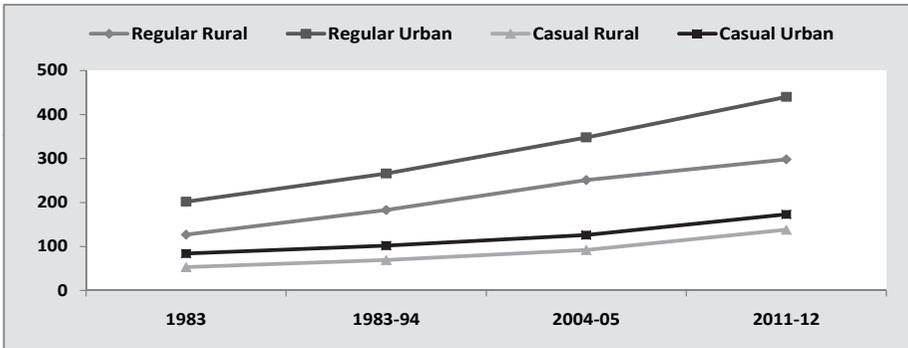
Note

Source: NSSO, 2013.

### TRENDS IN WAGES

An analysis of wage trends over the last three decades indicates that though the average wage rate in absolute terms has increased for both regular and casual workers, the gap between the two segments has widened over time, contributing to increasing wage inequality in the labour market (refer Figure 5).

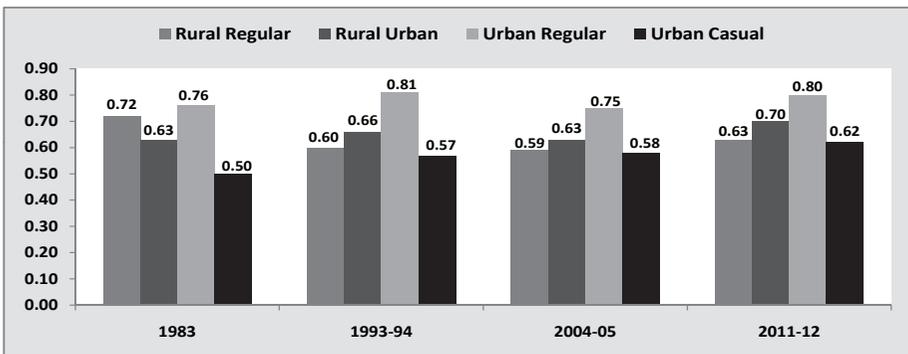
**Figure 5: Trends in Wages in India (in ₹): 1983 to 2011-12**



Source: Computed from unit level data of various NSSO Rounds.

Gender wage disparity is a key feature of the Indian labour market, with wide-ranging implications for the economy and society. While the wage gap between female and male workers seems to have declined over the last 30 years, female wage rates are still only 60% of those for males on an average across different locations and statuses (refer Figure 6).

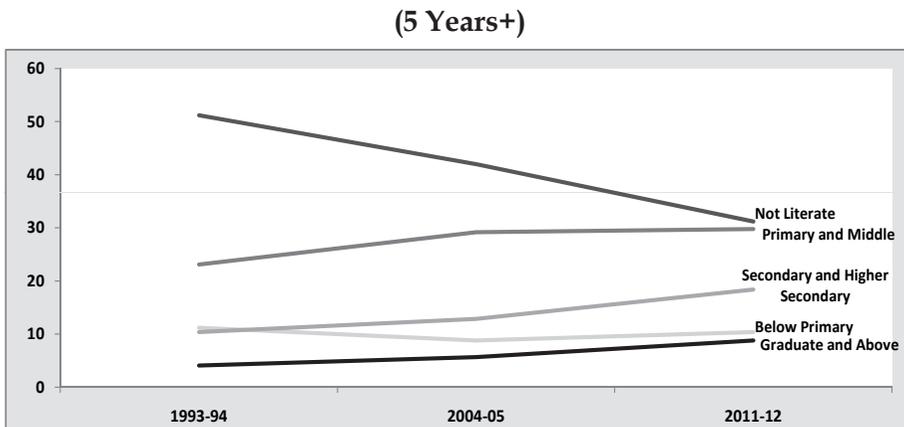
**Figure 6: Female-Male Wage Ratios across Different Categories in India: 1983 to 2011-12**



Source: Computed from unit level data of various NSSO Rounds.

## EDUCATION AND THE SKILL BASE

The level of employability is critically dependent on the educational and skill of the workforce. At present less than 30% of the workers have educational attainments above the secondary level and more than 30% of the workers are not literate. However, the trend over the last two decades has exhibited several positive features (refer Figure 7). Between 1993 and 2011, the share of the non-literate among the workers has declined sharply from 51.2% to 31.2%. During the same period the proportion of workers with secondary education and above has nearly doubled from 14.1% to 28.6%. However, the skill base of the workforce, measured by vocational training (formal or informal), continues to be one of the lowest in the world, with only 2% receiving formal and 8% informal vocational training.



Source: NSSO Rounds (various years).

Another critical issue in the context of skill development in India relates to the structure of the skill pyramid. Given that the focus is presently on the manufacturing sector, there is an urgent need to improve the skill base, particularly in relation to the low and middle bases of the skill pyramid. It would entail more focus on vocational training as a key driver to generate the requisite skills in different trades. Massive scaling up of skill endowment is a crucial requirement for enhancing both the quantity and quality of employment.

## **POLICY PERSPECTIVES**

It is clearly evident from the above analysis that the provision of quality employment to the increasingly youthful population is emerging as one of the decisive challenges in India. Given the persistence of self-employment, special attention should be given to create income stability and sustainable livelihood options, especially for the low-end self-employed in agriculture and services, by enhancing social protection and improving their skills for starting and managing their own microenterprises. This will contribute to the growth of non-farm employment options in the rural areas. Along with encouraging the trend towards regular wage employment, there is a need to raise the remuneration of casual wage earners and enhance social protection measures for them. The trend towards declining gender-based wage inequality has to be sustained and measures taken to achieve full parity. Such measures will also contribute to increased participation of women in the labour market. Policy measures such as extendible working time, better maternity and paternal leave arrangements, stricter safety and security norms at the workplace, and customised counselling and job placement services for women could pave the way for more women joining the labour force. Policy measures should be directed towards improving the labour market outcomes of the socially disadvantaged and youth by extension of social protection and imparting of customised and targeted skill development training. To improve the labour market outcomes of the vast majority of rural workers, an important intervention by the state could be enriching the skill content of the public employment programmes.

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## Labour Laws for Informal Sector Workers in India

Dr. Sanjay Upadhyaya\*

The unorganised and informal sector of the economy has a key role in the overall development and economy of a nation, especially in terms of its contribution towards GDP and employment. The workers engaged in this sector play a vital role in the growth of this sector, and their rights and entitlements need to be protected. This is all the more important in the case of developing economies like India. A number of measures have been incorporated in the Constitution of India – especially in its Preamble; Chapter III dealing with Fundamental Rights; and Chapter IV dealing with Directive Principles of State Policy – to address the various labour and social security issues of the workers in general and those engaged in the unorganised and informal sector in particular. A number of labour legislations have also been enacted in India both by the central and state legislatures to protect the interest of such workers. These legislations touch upon various aspects such as wages, employment relations, conditions of work, labour welfare measures and social security, etc. The following sections provide a broad overview of the salient features of the key labour legislations applicable to the informal sector in India.

### PAYMENT OF WAGES ACT, 1936

**Object, Applicability and Coverage of the Act:** The main object of the Act is to regulate the payment of wages of certain classes of employed persons, avoid unnecessary delay in the payment of wages, and prevent unauthorised deductions from the wages. This Act applies to factories, railway industrial establishments, tramway service or motor transport service engaged in carrying passengers or goods or both by road; air transport service (other than such service belonging to or exclusively employed to the military, naval or air forces of the Union or the Civil Aviation Department of the Government of India); dock, wharf or jetty; inland vessel, mine, quarry or plantation, workshop or other establishments; construction activities or any other establishment or class of

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establishments of the government which employs people. At present, employees drawing wages up to ₹ 18,000 per month are covered under the Act.

**Time of Payment of Wages:** The Act states that wages of every person employed should be paid, in case of establishments employing up to 1,000 persons, before the expiry of the seventh day of the following month and, in case of establishments employing 1,000 or more workers, before the expiry of the tenth day of the following month. (Section 5)

**Mode of Payment of Wages:** The Act provides that all wages have to be paid in current coins or currency notes or in both. However, after obtaining authorisation from the employee, the wages may be paid either by cheque or by crediting the wages in the employee's bank account. (Section 6)

**Deduction from Wages:** As per the Act, deductions such as, reimbursement of amenities and services supplied by the employer, advances paid, over-payment of wages, loans granted for house building or other purposes, income tax payable, in pursuance of the order of the court, PF contributions, cooperative societies, premium for life insurance, contribution to any fund constituted by the employer or a trade union, recovery of losses, ESI contributions, etc. can be made from the wages. The maximum permissible limit with respect to deductions under the Act is 50% of the wages. However, in the event of deduction for the purpose of payment to cooperative societies, the limit of maximum permissible deduction is 75% of the wages paid to the employee. (Section 7)

**Penal Provisions:** The Act provides for penalties for breach of provisions in the form of fines in the range of ₹1,500-7,500. Repeated offences under the Act attract penalty in the form of imprisonment from one month to six months, and fines in the range of ₹3,750-22,500. Delayed wage payments attract a penalty of ₹750 per day. (Section 20)

## **MINIMUM WAGES ACT, 1948**

**Object, Applicability and Coverage of the Act:** The main object of the Act is to provide for the fixation and revision of minimum rates

of wages in certain categories of employments and industries. The Act applies to those scheduled employments in respect of which minimum rates of wages have been and applies to directly employed employees as well as those employed through contractors.

**Fixation of Minimum Rates of Wages:** Under the Act the minimum rates of wages from time to time for various industries/schedule of

**Payment of Minimum Rates of Wages and Overtime:** It is the duty of every employer to pay to every employee engaged in scheduled employment a rate not less than minimum rates of wages as by and by not making deductions other than those prescribed. No employer can pay less than minimum rates of wages as For overtime work, the wages are to be paid at double the normal rate. However, agriculture labourers are to be paid 1½ times the normal rate.

**Maintenance of Registers and Records:** The employers covered by the Act have to annual returns in the prescribed form within the stipulated time period. They are supposed to maintain a Register for Overtime, a Register of Wages, a Muster Roll and also issue wage slips to their employees. (Section 18)

**Penal Provisions:** For breach of provisions of the Act, the employer is punishable with imprisonment up to six months and/or a up to ₹500. (Section 22)

## **EQUAL REMUNERATION ACT, 1976**

**Object and Applicability of the Act:** The key object of this Act is to provide for the payment of equal remuneration to men and women workers and for the prevention of discrimination, on the grounds of sex, against women in the matter of employment and for matters connected therewith or incidental thereto.

**Brief Legislative History of the Act:** Article 39 of Constitution envisages that the State shall direct its policy, among other things, towards securing that there is equal pay for equal work for both men and women. To give effect to this constitutional provision,

the President promulgated, on 26 September 1975, the Equal Remuneration Ordinance, 1975, so that the provisions of Article 39 of the Constitution may be implemented in the year that was being celebrated as the International Women's Year. The Ordinance provided for payment of equal remuneration to men and women workers for the same work or work of similar nature and for the prevention of discrimination on grounds of sex.

**Important under the Act:**

- **Remuneration:** As per section 2(g) of the Act 'remuneration' means the basic wage or salary and any additional emoluments whatsoever payable, either in cash or in kind, to a person employed in respect of employment or work done in such employment, if the terms of the contract of employment, express
- **Same Work or Work of a Similar Nature:** As per section 2(h) of the Act, 'Same Work or Work of a Similar Nature' means work in respect of which the skill, efforts and responsibilities required are the same, when performed under similar working conditions, by a man or a woman and the differences, if any, between the skill, effort and responsibility required of a man and those required of a woman are not of practical importance in relation to the terms and conditions of employment.

**Recruitment without any Prejudice:** Section 5 of the Act provides that while making recruitment for the same work or work of a similar nature, or in any condition of service subsequent to recruitment such as promotions, training or transfer, no employer shall make any discrimination against women except where the employment of women in such work is prohibited or restricted by or under any law for the time being in force. As per Section 8, it is the duty of every employer to maintain registers and other documents in relation to the workers employed by him in the prescribed manner.

**Penal Provisions:** Under the Act there is provision for penalty for making any recruitment in contravention of the provisions of this Act; making any payment of recruitment at unequal rates to men and women workers for the same work or work of a similar

nature; making any discrimination between men or women workers in contravention of the provisions of this Act; and any omission or failure on the part of the employer to carry out any directions made by the appropriate government. The offences under the Act attract penalty in terms of up to ₹ 10,000 or/ and imprisonment of one month. (Section 10)

### **INTER-STATE MIGRANT WORKMAN (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) ACT, 1979**

**Object and Applicability of the Act:** The main object of the Act is to regulate the employment of inter-state migrant workmen, to safeguard their interests, and to provide for their conditions of service and for matters connected therewith. The provisions of the Act are applicable to every establishment in which or more inter-state workmen are employed or were employed on any day of the preceding 12 months and to every contractor who employs or employed or more inter-state migrant workmen on any day of the preceding 12 months. The Act also provides for registration of the establishments employing inter-state migrant workmen and licences for the contractors.

**Registration and Licence:** Every principal employer of an establishment employing or intending to employ or more inter-state migrant workers has to make an application to the registering appointed under the ISMW (RE & CS) Act in the prescribed form and on payment of prescribed fee for the registration of the establishment within the stipulated time limit. Similarly, every contractor intending to recruit or more persons from one state for the purpose of employing them in any establishment situated in another state has to obtain a licence from the licencing appointed under the Act. The licence issued to contractors under the Act normally contains conditions including, in particular, the terms and conditions of the agreement or other arrangements under which the workmen will be recruited, the remuneration payable, hours of work, of wages, and other essential amenities in respect of the inter-state migrant workers as the appropriate government may deem to impose in accordance with the rules; the licence is issued on payment of such fees as may be prescribed.

**Displacement Allowance:** As per the Act, this allowance has to be paid by the contractor to every inter-state migrant workman at the time of recruitment equal to 50% of the monthly wages payable to him. (Section 14)

**Journey Allowance:** A journey allowance of a sum of not less than the fare from the place of residence of the inter-state migrant workman in his state to the place of work in the other state has to be paid by the contractor to the workman both for the outward and return journeys and such a workman is entitled to payment of wages during the period of such journeys as if he was on duty. (Section 15)

**Penal Provisions:** The penalty for offences committed under the Act by the defaulters is imprisonment upto one year or a fine upto ₹ 1,000 or both. In case the offence continues, there is a provision for additional fine upto ₹ 100 for each day during which the

## **CONTRACT LABOUR (REGULATION AND ABOLITION) ACT, 1970**

**Object and Applicability of the Act:** The object of the Contract Labour (Regulation and Abolition) Act, 1970, is to prevent exploitation of contract labour and to introduce better conditions of work for them. As per the Act, a workman is deemed to be employed as 'contract labour' when he is hired in connection with the work of an establishment by or through a contractor. The Act applies to the principal employer of an establishment and the contractor who employs 20 or more workmen or employed 20 or more workmen as contract labour even for a single day during the preceding 12 months. For the purpose of calculating the number, contract labourers employed for different purposes through different contractors have to be taken into consideration as far as the principal employer is concerned. This Act does not apply to establishments where work performed is of intermittent or seasonal nature. If a principal employer or the contractor falls within the purview of this Act then such principal employer and the contractor have to apply for registration of the establishment and licence respectively.

**Welfare Measures to be taken by the Contractor:** The contractors covered under the Act have to provide: canteen facility (if workers are 100 or more); aid facilities; restrooms; drinking water, latrines and washing facilities.

**Liability of Principal Employer:** If the contractor fails in his responsibilities, the principal employer has to ensure provision for canteen, restrooms, supply of drinking water, latrines, urinals and washing facilities, etc. However, the principal employer is entitled to recover the expenses incurred from the contractor for providing such amenities or to make deductions from amount payable. The principal employer is also obliged to maintain a register of contractor(s) in respect of every establishment in the prescribed form.

**Records and Registers to be Maintained by the Contractor:** Every contractor covered under the Act is obliged to maintain a Muster Roll and a Register of Wages in Form XVI and Form XVII respectively when combined; Register or Wage-cum-Muster Roll in prescribed Form; Register of Deductions for damage or loss; Register of Fines; Register of Advances; and Register of Overtime. The contractor is also obliged to issue wage slips to the workmen at least a day prior to the disbursement of wages; obtain the signature or thumb impression of the worker concerned against the entries relating to him on the Register of Wages or Wage-cum-Muster Roll; display an abstract of the Act and rules in English and Hindi and in the language spoken by the majority of workers in such forms as may be approved by the appropriate authority; display notices showing rates of wages, hours of work, wage period, dates of payment, names and addresses of the inspector and send a copy to the inspector of any change forthwith; issue an employment card to each worker in prescribed form; and issue service to every workman on his termination in prescribed form.

**Penal Provisions:** The Act provides that if the principal employer, covered under the Act, fails to get himself/herself registered under the Act, he/she cannot employ contract labour. For contravention of the provisions of the Act or any rules under the Act, there is a provision of punishment in the form of imprisonment for a

maximum term up to three months or a            up to a maximum of ₹ 1,000 or both; and in the case of a continuing contravention an additional            will be levied which may extend to ₹ 100 for every day during which such contravention continues after conviction for

### **BEDI AND CIGAR WORKERS (CONDITIONS OF EMPLOYMENT) ACT, 1966**

**Object and Applicability of the Act:** This Act provides for the welfare of the workers employed in beedi and cigar establishments. It regulates the conditions of work of workers engaged in this industry, and also makes provisions regarding other facilities like drinking water, latrines, urinals, washing facilities, creches, aid and canteen facilities, etc. The Act also seeks to safeguard the interests of home-based beedi workers' to the extent possible.

**Licence and Renewal of Licence:** Any person who intends to use or allows to be used any place or premises as industrial premises for manufacturing of beedi or cigar or any other connected activity is obliged to make an application in writing to the competent authority, in such form and on payment of such fees as may be prescribed. The application has to specify the maximum number of employees proposed to be employed at any time of the day in the place or premises. It has also to be accompanied by a plan of the place and premises prepared in the prescribed manner. A licence granted under this section remains valid till the end of the    nancial year in which it is granted but may be renewed from            year to            year. An application for the renewal of a licence granted under this Act has to be made at least 30 days before the expiry of the period of licence. (Section 4)

**Penal Provisions:** Obstruction to the inspector under the Act or failure on the part of any person to produce on demand by the inspector any register or other document kept in his custody in pursuance of this Act is punishable with imprisonment for a term which may extend to six months or with a            which may extend to ₹ 5,000 or with both. Contravention of any of the other provisions of the Act or rule, or failure to pay the wages etc., is punishable for the            ₹ 250 and for a second

or subsequent offence with imprisonment for a term which shall not be less than one month and more than six months or with a fine which shall not be less than ₹100 or more than ₹ 500 or with both. (Sections 32 & 33)

### **BUILDING AND OTHER CONSTRUCTION WORKERS (REGULATION OF EMPLOYMENT & CONDITIONS OF SERVICE) ACT, 1996**

**Object and Applicability of the Act:** The BOCW (RE&CS) Act provides for regulating the employment and conditions of service of building and other construction workers and also provides for their safety, health and welfare measures and other connected matters. The Act applies to every establishment, belonging to or under the control of government, any corporate or an individual or association or other body of individuals which or who employs building workers in any building and other construction work, and includes an establishment belonging to a contractor which employs, or had employed on any day of the preceding 12 months, 10 or more building workers in any building or other construction work. However, it does not include an individual who employs such workers in any building or construction in relation to his residence if the total cost of the construction is not more than ₹10 lakhs.

**Responsibility and Liability of Employer under the Act:** The Act makes it mandatory for every employer to give notice of commencement of any building or other construction work at least 30 days before the commencement of building and construction activity with complete details, including nature of the work involved, number of workers likely to be employed, approximate duration of the work, and the arrangement for the storage of the explosives to be used in the building or other construction work.

Every employer is further required to get his/her establishment registered within 60 days from commencement of building or construction activity carried out by it or from the date on which this Act becomes applicable to such establishment.

Employers covered under the Act are also responsible for payment of wages to each building worker employed by them, providing

weekly paid rest; wages for overtime; basic welfare amenities like creches, aid, canteen etc., as provided under the Act. Every employer covered under the Act is also required to pay a cess of 1% of the cost of construction to the Building & Other Construction Workers Welfare Board of the concerned state.

**Welfare Boards:** Every state government is obliged to constitute a Board to be known as the (name of the state) Building & Other Construction Workers Welfare Board to exercise the powers conferred on it, and perform the functions assigned to it, under the BOCW (RE&CS) Act. The functions of the welfare boards are:

- to provide immediate assistance to a in case of an accident
- to make payment of pension to who have completed the age of 60 years
- for construction of a house not exceeding such amount and on such terms and conditions as may be prescribed
- to pay such amount in connection with the premium for group
- to give such assistance for the education of children of
- to meet such medical expenses for treatment of major ailments
- to make payment of maternity to the female
- to make provision and improvement of such other welfare measures and facilities as may be prescribed

**Welfare Fund:** Constituted by the Board, the welfare fund – known as the Building and Other Construction Workers' Welfare Fund – carries out various activities for the welfare of the building and construction workers registered as under the Act. Credited to this fund are: (a) any grants and loans made to the Board by the central government; (b) all contributions made by the (c) all sums received by the Board from such other sources as may be decided by the central government.

**Enforcement:** The Act is enforced by the organisation of the Chief Labour Commissioner (s) in the central sphere and of the Labour Department of the concerned state.

**Penal Provisions:** Contravention of the provisions of the BOCW (RE & CS) Act and the rules under it is punishable with imprisonment for a term which may extend to three months, or with a which may extend to ₹2,000, or with both. A continuing contravention under the Act attracts an additional which may extend to ₹100 for each day during which such contravention continues after conviction for the such contravention. If any person who has been convicted of any offence punishable under the Act is again found guilty of an offence involving a contravention of the same provision, s/he shall be punishable on a subsequent conviction with imprisonment for a term which may extend to six months, or with a which shall not be less than ₹500 but which may extend to ₹2,000, or with both. (Sections 47-50)

### **MATERNITY BENEFIT ACT, 1961**

**Object and Applicability of the Act:** The prime object of this Act is to protect the dignity of motherhood and to provide certain to women employees at the time of childbirth. The Act is applicable to all women employees, whether employed directly or through a contractor, in mines, factories, plantations and in other establishments if the state government so decides. The Act is also applicable to every shop or establishment in which 10 or more persons are employed. As per the Act, any pregnant working woman is entitled to maternity leave. She is entitled to avail six weeks of leave before the due date of expected delivery and six weeks after the child's birth. Even in the case of miscarriage or abortion, a woman covered under the Act can avail six weeks' leave.

**Important Provisions of the Act:** Some of the main provisions of the Act are as follows:

- No employer can knowingly employ a woman in any establishment during the six weeks immediately following the day of her delivery or her miscarriage. Also, no woman is allowed to work in any establishment during the six weeks immediately following the day of her delivery or her miscarriage.

- Every woman covered under the Act is entitled to, and her employer is liable for, the payment of maternity at the rate of the average daily wage for the period of her actual absence immediately preceding and including the day of her delivery and for the six weeks immediately following that day.
- No woman is entitled to maternity unless she has actually worked in an establishment of the employer from whom she claims maternity for a period of not less than 80 days in the 12 months immediately preceding the date of her expected delivery.
- The maximum period for which any woman is entitled to maternity is 12 weeks, i.e. six weeks up to and including the day of her delivery and six weeks immediately following that day.
- No deduction from the normal and usual daily wages of a woman entitled to maternity shall be made by reason only of: (i) the nature of work assigned to her by virtue of the provisions of the Act; or (ii) breaks for nursing the child allowed to her under the provisions of the Act.
- If a woman works in any establishment after she has been permitted by her employer to absent herself for any period, during such authorised absence, she shall forfeit her claim to the

**Penal Provisions:** For breach of the provisions of the Act, the employer is punishable with imprisonment up to one year and/or ₹5,000. (Section 21)

### **EMPLOYEES' COMPENSATION ACT, 1923**

**Object, Applicability and Coverage of the Act:** Earlier known as the Workmen's Compensation Act, this Act was enacted as a kind of social security measure for workmen who suffer employment injury, occupational disease, etc. The Act is applicable to employers employing categories of employees listed in Schedule II of the Act and as 'employee' under Section 2 (1)(dd) of the Act and to whom the Employees' State Insurance (ESI) Act is not applicable. It is applicable to all such employees irrespective of their status or salaries and engaged either directly or through a contractor or a person recruited to work abroad.

**Eligibility:** Any employee who is injured by an accident arising out of and in the course of his employment, or contracts any occupational disease peculiar to his occupation, is eligible for various under the Act.

In case of death resulting from injury, 50% of monthly wages multiplied by (X) relevant factor or ₹1,20,000, whichever is more; in case of permanent total disablement resulting from the injury, 60% of monthly wages multiplied by relevant factor or ₹1,40,000, whichever is more; where permanent, partial disablement or temporary disablement results from injury, as per prescribed schedule, and in case of death, funeral expenses of ₹5,000. The relevant factor is based on the age of employee. For the purpose of calculation of compensation, at present the monthly salary ceiling is ₹8,000. In the event of death or in the event of any dispute relating to compensation, the compensation has to be deposited with the Commissioner within one month.

**When an Employee is not Entitled to Compensation:** An employee is not entitled to compensation in respect of any injury which results in the total or partial disablement of the workman for a period not exceeding three days; or in respect of any injury not resulting in death or permanent total disablement caused by an accident which is directly attributable to the employee having been at the time under the of drink or drugs, wilful disobedience of the employee to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of the employee, or wilful removal or disregard by the employee of any safety guard or other device which he knew to have been provided for the purpose of securing the safety of employees.

**Bars:** Under the Act, relinquishment by any employee of his right for personal injury is not permissible. Further, when a person is entitled to any of the provided by this Act, he shall not be entitled to receive any similar admissible under the provisions of any other enactment.

**Penal Provisions:** There is a provision for penalty under the Act for failure on the part of the employer to (a) to maintain a Notice-book which he is required to maintain under Sub-section (3) of Section 10, (b) failure to send to the Commissioner a statement which he is

required to send under Sub-section (1) of Section 10A, (c) failure to send a report which he is required to send under Section 10B, and (d) failure to make a return which he is required to make under Section 16 of the Act. The above failures on the part of the employer are ₹5,000. (Section 18A)

### **OTHER LEGISLATIVE PROVISIONS**

In addition to the above mentioned Acts, there are also some other legislations such as the Employees' State Insurance Act, 1948; Employees' Provident Funds Miscellaneous Provisions Act, 1952; and a number of state-specific labour legislations such as Shop & Establishment Acts of various state governments which are also applicable to workers in the informal sector subject to fulfilment of certain conditions. In addition, the states of Kerala and Tripura also

### **CONCLUSION**

The above discussion clearly reveals that India has a very comprehensive legislative framework for addressing the various labour and social security issues of the workers in the informal sector. However, having provisions alone is not enough; it is necessary to rationalise the provisions in the context of transformations in the labour scenario so that they are in consonance with the needs of the contemporary world of work. A beginning in this regard has already been made by the present government by initiating the process of amalgamation and consolidation of a large number of labour laws into labour codes. Additionally, a strong awareness campaign is essential to educate the large numbers of workers about various Acts and familiarise them with their entitlements and obligations. Finally, an effective enforcement mechanism needs to be put in place to translate the various lofty ideals into reality to provide relief and succour to the teeming millions in the vast informal sector.

### **Acknowledgements:**

The author gratefully acknowledges the support provided by Dr. Kavita Surabhi, Research Associate, for arranging the relevant information and Mr. Vikrant and Ms. Kusum Balooni, Computer Operators, for computer assistance for this write-up.

## **Social Security and Rural Labour**

**Dr. Poonam S. Chauhan\***

Rural labourers constitute the largest segment of the labour force in the country. They are also the most vulnerable group in rural society. They lack virtually all productive assets, like land, capital, skills, access to credit, etc. In most cases they are absolutely dependent upon the landed classes. Being unorganised, their bargaining capacity is marginal, which leads to their ruthless exploitation by moneylenders, landlords, rich capitalist farmers and middlemen. Besides, rural labourers are constituted largely by people belonging to socio-economically oppressed classes like the Scheduled Castes, Scheduled Tribes and Other Backward Classes. They are not a homogeneous group: some of them are free, some are attached and still many of them are bonded. However, they have one thing in common: they are deprived of even basic minimum facilities for

In order to protect rural labour, the government has recently launched a number of social security programmes, namely, Atal Pension Yojana, Pradhan Mantri Jan-Dhan Yojana, Pradhan Mantri Suraksha Bima Yojana, Pradhan Mantri Jeevan Jyoti Bima Yojana and Pradhan Mantri Krishi Sinchai Yojana. In addition, there are a sizeable number of programmes with social security components in operation. Of them, the Mahatma Gandhi National Rural Employment Guarantee Act, 2005, Rashtriya Swasthya Bima Yojana (RSBY) and the Unorganised Workers Social Security Act, 2008, are the most prominent. There are also several social assistance programmes for senior citizens, differently abled persons and widows. The central government also provides for the social security needs of workers, beedi workers, artisans and other groups of rural workers.

Given below are details of the leading programmes, including the names of the agencies through which the programmes are accessed

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## **MAHATMA GANDHI NATIONAL RURAL EMPLOYMENT GUARANTEE ACT**

Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) is one of the programmes of the Government of India (GoI) that directly touches the lives of the poor and promotes inclusive growth. The Act aims at enhancing livelihood security of the rural poor by guaranteeing 100 days of wage employment in a year to every rural household whose adult members volunteer to do unskilled manual work.

Implemented by the Ministry of Rural Development from 2 February 2006, this Act initially covered 200 of the most backward districts of the country; it was extended in two phases to cover all remaining districts of the country.

The salient features of MGNREGA are:

- At least 100 days of wage employment is assured to adults in every rural household who volunteer to do unskilled manual work.
- Households have to apply for registration to the local Gram Panchayat, in writing or orally.
- The Gram Panchayat, after due issues a Job Card to the household. The Job Card bears the photographs of all adult members of the household willing to work under MGNREGA and is provided to the eligible household free of cost.
- A registered household may submit a written application for employment to the Gram Panchayat, stating the time and duration for which work is sought.
- Applications for work must be for at least 14 days or continuous work, except for work relating to 'access to sanitation facilities', for which applications must be for at least six days of continuous work.
- The Gram Panchayat is to issue a dated receipt of the valid application for employment.
- Employment is required to be provided within 15 days of receipt of an application or from the date work is sought in case of advance application, whichever is later.

- If employment is not provided within 15 days, daily unemployment allowance has to be paid. States are liable to pay such unemployment allowances.
- At least one-third of persons to whom work is allotted have to be women.
- Disbursement of wages has to be done on weekly basis and not delayed beyond a fortnight.
- Panchayat Raj Institutions (PRIs) have been assigned a central role in planning and implementation.
- Each district is required to prepare a shelf of projects to meet the demand for work.

### **NATIONAL SOCIAL ASSISTANCE PROGRAMME**

The Directive Principles of State Policy in the Constitution of India enjoin upon the State to undertake within its means a number of welfare measures. Article 41 of the Constitution of India directs the State to provide public assistance to its citizens in case of unemployment, old age, sickness and disablement and in other cases of undeserved want within the limit of its capacity. It is in accordance with these principles that the GoI on 15 August 1995 introduced the National Social Assistance Programme (NSAP) in the central budget for 1995-96.

NSAP is a social assistance programme for the aged, widows and disabled in Below the Poverty Line (BPL) households, and also includes provision for one-time assistance in the case of death of the primary breadwinner in a BPL family.

The scheme has the following components:

- **Indira Gandhi National Old Age Pension Scheme (IGNOAPS):** Assistance of ₹ 200 per month is provided to BPL persons in the age group of 60-79 years and ₹ 500 per month to those above 80 years of age.
- **Indira Gandhi National Widow Pension Scheme (IGNWPS):** Introduced in 2009, it provides assistance of ₹ 300 per month to widows in the age group of 40-79 years belonging to BPL

households. After attaining the age of 80 years, the is shifted to IGNOAPS for the pension of ₹ 500 per month.

- **Indira Gandhi National Disability Pension Scheme (IGNDPS):** Under this scheme introduced in 2009, assistance of ₹ 300 per month is provided to persons with severe or multiple disabilities belonging to BPL households in the age group of 18-79 years. After attaining the age of 80 years, the is shifted to IGNOAPS for the pension of ₹ 500 per month.
- **National Family Scheme (NFBS):** One-time assistance of ₹ 20,000 is provided to the bereaved BPL family in the case of death of the primary breadwinner in the age group of 18-59 years.
- **Annapurna:** Under Annapurna, 10 kgs of food grains per month is provided free of cost to the who are eligible but not covered under the erstwhile old age pension scheme.

#### JANANI SURAKSHA YOJANA

This scheme seeks to reduce neonatal and maternal deaths in the country by promoting institutional delivery among poor pregnant women. Janani Suraksha Yojana (JSY) has accredited social health activists (ASHAs) as an effective link between the government and poor pregnant women in achieving its goal. Their main role is to facilitate pregnant women in availing maternal care services and arranging referral transport.

The scheme categorises states into Low Performing States (LPS) and High Performing States (HPS) based on institutional delivery rates. Ten states with a low institutional delivery rate, i.e. Uttar Pradesh, Uttarakhand, Bihar, Jharkhand, Madhya Pradesh, Chhattisgarh, Odisha, Rajasthan, Assam and Jammu & Kashmir, are termed LPS and given special under the scheme. The remaining states are termed HPS.

- **LPS:** All women, including those from SC and ST families, are eligible for assistance in government health centres like PHC/CHC/PRU/general wards of district and state hospitals, and accredited private institutions. All deliveries are to occur in a

health centre – a government one or an accredited private health institution.

- **HPS:** BPL pregnant women, aged 19 years and above, and SC and ST pregnant women are eligible for assistance under this scheme. Upto two live births are eligible for under this scheme in HPS.

#### Scale of Assistance:

	Mother's Package	ASHA's Package
Rural Areas		
LPS	1,400	600
HPS	700	-
Urban Areas		
In LPS	1,000	250
In HPS	600	-

- The government is not responsible for the delivery costs. She has to bear the cost when choosing to go to an accredited private institution for delivery. She only gets her entitled cash (as elaborated in the table above).
- Cash assistance is given for referral transport for a pregnant woman to go to the nearest health centre for delivery depending on the topography and infrastructure available in her state. It would, however, be the duty of the ASHA and the Auxiliary Nurse Midwife (ANM) to organise, or facilitate in organising, the transport in conjunction with the Gram Pradhan, Gram Sabha.
- The balance amount is to be paid to the ASHA for services rendered by her.
- Cost of caesarean section or the management of obstetric complications is subsidised upto ₹1,500 per delivery to the government institution, where government specialists are not in position.

The scheme is being implemented through the following stakeholders:

- State governments through Public Health System
- ASHAs and ANMs
- Gram Panchayats

## **RASHTRIYA SWASTHYA BIMA YOJANA**

Launched in 2008, Rashtriya Swasthya Bima Yojana (RSBY) proposes to cover all unorganised workers' families in 5 years. State nodal agencies implement the scheme through insurance companies involving village Panchayats and local bodies. This is an insurance scheme in which workers, the central government and the state governments share a proportion of premium.

### **Premium:**

- The GoI bears 75% of the total annual premium of ₹ 750, subject to a maximum of ₹ 565 per family per annum. The cost of Smart Cards is also borne by the central government
  - State governments contribute 25% of the annual premium, as well as any additional premium
  - The worker pays ₹ 30 per annum as registration/renewal fee
  - The administrative and other related costs are borne by the respective state governments
- 
- Health insurance cover of ₹ 30,000
  - Cashless attendance for all covered ailments
  - Hospitalisation expenses, taking care of most common illnesses with as few exclusions as possible
  - All pre-existing diseases to be covered
  - Transportation costs ₹ 100 per visit, with a maximum of ₹ 1,000, reimbursed

## **HANDLOOM WEAVERS' COMPREHENSIVE WELFARE SCHEME**

During 2005-06 and 2006-07, the GoI had two separate schemes for handloom workers, i.e. the Health Insurance Scheme for providing health care facilities to handloom weavers in the country and the Mahatma Gandhi Bunkar Bima Yojana for providing life insurance cover to handloom weavers in case of natural/accidental death and

total/partial disability due to accident. During the 11<sup>th</sup> Plan, both schemes were amalgamated into one—the Handloom Weavers' Comprehensive Welfare Scheme.

The scheme covers the weaver, wife and two children. Ancillary handloom workers like those engaged in warping, winding, dyeing, printing, sizing, *jhola* making, jacquard cutting, etc. are also eligible for it. The scheme covers all pre-existing diseases as well as new diseases and a substantial provision has been kept for OPD. The annual limit per family is ₹ 15,000 out of which the OPD cover is ₹ 7,500. The handloom weavers' scheme is implemented through the ICICI Lombard General Insurance Company Ltd.

**Premium:**

- The premium of ₹ 781.60 comprises GoI contribution of 80% and the weavers' contribution of 20%.
- The weaver has to pay a minimum of ₹ 50. The state government

• Annual limit per family (1+3 sub-limits per family):	15,000
• All pre-existing diseases + new disease:	15,000
•	2,500
• Dental treatment:	250
• Eye treatment:	75
• Spectacles:	250
• Domiciliary hospitalisation:	4,000
• Ayurvedic/Unani/Homeopethic/Siddha:	4,000
• Hospitalisations (including pre and post):	15,000
• Baby coverage:	500
• OPD:	7,500
• Limit per illness:	7,500

**MAHATMA GANDHI BUNKAR BIMA YOJANA**

The Mahatma Gandhi Bunkar Bima Yojana is being implemented through the Life Insurance Corporation of India at an annual

premium of ₹ 330 per annum of which the \_\_\_\_\_ contributes only ₹ 80 per year. The \_\_\_\_\_ provided are (i) Natural death ₹ 60,000; (ii) Accidental death ₹ 1,50,000; (iii) Total disability ₹ 1,50,000; (iv) Partial disability ₹ 75,000. Apart from this, there is also a provision of scholarship of ₹ 300 per quarter for the children of weavers in school, from IX to XII standards.

### **PENSION TO MASTER CRAFTS-PERSONS**

Master crafts-persons of the age of 60 years or more who are recipients of National Awards or Merit \_\_\_\_\_ or State Awards in handicrafts, whose private income is less than ₹ 15,000 per year, and who are not in receipt of similar \_\_\_\_\_ assistance from any other source are eligible for this scheme. They are provided a pension at the rate of ₹ 1,000 per month. The scheme is being implemented through the \_\_\_\_\_ of the Development Commissioner (Handicrafts), Ministry of Textiles, GoI.

### **NATIONAL SCHEME OF WELFARE OF FISHERMEN**

The scheme is aimed at providing basic amenities like housing, drinking water, etc. and facilitating the process of enhancing the living standards of \_\_\_\_\_ folk in the country. Sub-schemes under this include Development of Model Fishermen Villages, Group Accident Insurance for Active Fishermen, Saving-cum-Relief, and Training & Extension.

**Development of Model Fishermen Villages:** A sum of ₹ 50,000 each is provided for developing model houses in \_\_\_\_\_ villages. The Cabinet has approved an enhancement of ₹ 75,000 per house for the 12<sup>th</sup> Plan. An amount of ₹ 40,000 per tube well in all States (except North-Eastern states) and Union Territories & ₹ 45,000 in the North-Eastern states is provided (for tube wells for drinking water). Another component is the construction of common workplaces/community halls, \_\_\_\_\_ processing centres, etc. The \_\_\_\_\_ assistance for this is ₹ 1,75,000 per hall. There is approval from the Cabinet to enhance the amount of assistance to ₹ 2,00,000 in the 12<sup>th</sup> Plan.

**Group Accident Insurance for Active Fishermen:** The extent of \_\_\_\_\_ is ₹50,000 in case of partial permanent disability and

₹1,00,000 in case of death/total disability. The Cabinet has approved an increase in the amount of \_\_\_\_\_ in the 12<sup>th</sup> Plan, to ₹ 1,00,000 in case of partial permanent disability and ₹ 2,00,000 in case of death/total disability.

**Saving-cum-relief Scheme for Fishermen:** The existing assistance under the Saving-cum-Relief Scheme for three months is ₹1,800 (₹ 600 per month for the three months' ban period for sea i.e. July-September). It has been enhanced to ₹2,700 (₹900 per month for the ban period) in the 12<sup>th</sup> Plan.

**Training & Extension:** The scheme provides a stipend of ₹ 125 per day subject to maximum of ₹ 1,875 per participant for a maximum of 15 days of training, honorarium of ₹ 15,000 to authors of handbooks and of ₹ 5,000 to experts for preparation of manuals. An assistance for workshops/seminars of ₹ 50,000 is also provided. The amount of \_\_\_\_\_ assistance for the construction of a training centre is ₹ 30 lakh.

### **PRADHAN MANTRI JAN-DHAN YOJANA**

Pradhan Mantri Jan-Dhan Yojana (PMJDY) is aimed at providing access to \_\_\_\_\_ services, i.e. banking/savings and deposit accounts, remittance, credit, insurance and pension, in an affordable manner. The account can be opened in any bank branch or Business Correspondent (Bank Mitra) outlet. PMJDY accounts can be opened with zero balance. However, if the account holder wishes to get a

For opening an account, no other documents are required if an Aadhaar Card/ Aadhaar Number is available. Voter ID card, driving licence, PAN card, passport & MGNREGA Card, etc. containing the address can be given as proof of identity and address.

- Interest on deposit
- Accidental insurance cover of ₹ 1 lakh
- No minimum balance required
- Life insurance cover of ₹ 30,000

- Easy transfer of money across India
- \_\_\_\_\_ of government schemes can get direct transfer in these accounts
- After satisfactory operation of the account for six months, an overdraft facility will be permitted; overdraft facility up to ₹ 5,000 is available in only one account per household, preferably that of the lady of the household
- Access to pension and insurance products

### **ATAL PENSION YOJANA**

The scheme has been designed to provide pensions to workers in the unorganised sector. The \_\_\_\_\_ will be eligible for the pension after a minimum 20 years of contribution. The age range of eligibility for this scheme is 18-40 years; the age of exit and start of getting pension is 60 years. The central government co-contributes 50% of the total contribution or ₹ 1,000 per annum, whichever is lower, to each eligible

The \_\_\_\_\_ of the scheme is a guaranteed pension of ₹ 1,000 per month. The amount of pension may be more, i.e. ₹ 2,000-5,000, on the basis of the amount deposited in the account.

### **PRADHAN MANTRI SURAKSHA BIMA YOJANA**

The scheme is aimed at providing insurance coverage to people in the age group 18-70 years who have a bank account, at a very small premium of ₹ 12 per annum. The amount of premium is auto-debited by the bank from the subscriber's account; this is the only mode available. The scheme provides risk coverage for accidental death and full disability at the rate of ₹ 2 lakh; on partial disability the \_\_\_\_\_ amount is ₹ 1 lakh. Any person with a bank account and Aadhaar Number linked to the bank account can give a simple form to the bank every year before 1 June in order to join the scheme.

### **PRADHAN MANTRI JEEVAN JYOTI BIMA YOJANA**

This insurance scheme offers a renewable one-year life cover to people in the age group 18-50 years holding saving accounts. The

insurance coverage of ₹ 2 lakh will be given to the dependents of the  
₹ 330 per annum.

## **CONCLUSION**

While the Government of India has, from time to time, taken promising initiatives in terms of social security to help the substantial population of the economically weaker sections of the society, the nationwide scenario indicates that our delivery system has to be sensitised, strengthened and made transparent. The poorer sections are grossly unaware of government programmes and schemes and also of labour laws; such awareness needs to be instilled among the working population countrywide. It is also vital to provide quality education to workers and their children. Compulsory and free education should be made accessible to poor families on a larger scale. Girls' schools/colleges must be promoted, and illiterate adult workers should be educated through adult education programmes. Further, the poorer workers need to be organised, so that their bargaining power is enhanced. Organised bodies of such workers can then be treated as stakeholders in accessing the social security entitlements. The delivery agents should thoroughly be sensitised and made accountable in delivering the goods honestly and in a timely fashion. Stringent punitive action should be taken against corrupt functionaries.

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# Preventing Children's Entry into Employment at Tender Age and Ending Child Labour in India

Dr. Helen R. Sekar\*

## CONCEPT AND DEFINITIONS

In India, children are engaged in varied forms of activities such as domestic work, household enterprises or farm and wage work. It is necessary to draw a line between child labour on the one hand and activities considered part of a natural socialisation process on the other, where children combine other childhood activities with the limited work roles assigned to them. Work may become a burden and serious risk to children if it results in neglect of their social and educational growth. In such a case, work predominates and places children under severe stress. It becomes a danger to their healthy development and future prospects. It is in this context that 'child work' is exploitative and abusive. In other words, work that impinges on children's right to education, play, leisure, mental, physical, spiritual and psychological development is child labour. In spite of the child labour-child work distinction, the number of working children is high for the issue of child labour to be a matter of huge concern in India.

While this is the broad context in which child labour is understood, there are varying definitions of child labour depending on the purpose. According to *Encyclopedia of Social Sciences*, 'When the business of wage earning or of participation in itself or family support conflicts directly or indirectly with the business of growth and education, the result is child labour.' The International Labour Organization (ILO) states it thus: 'Child Labour includes children prematurely leading adult lives, working long hours for low wages under conditions damaging to their health and to their physical and mental development, sometimes separated from their families, frequently deprived of meaningful educational

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and training opportunities that could open up for them a better future.'

In India, starting with the Factories Act of 1881 and later amendments of this Act, almost all the labour-related Acts have the minimum age of employment along with wages, working hours, etc. The of child labour in terms of age changes from Act to Act depending on the nature of activities that the particular Act deals with. The Child Labour (Prohibition and Regulation) Act of 1986 a child as a person who has not completed his/her 14<sup>th</sup> year of age. This is applicable to all forms of child labour. The UN Convention on the Child Rights (1989) and the ILO Convention 182 on Worst Forms of Child Labour have a child as a person who has not completed the age of 18.

## FORMS OF CHILD LABOUR

The working conditions of children vary depending on the nature of

- **Children working in family farms with their parents** are usually subjected to less exploitative work relations, yet they may be deprived of their education and other rights. Additionally, given the economic situation of small farming households, children's work in family farms is not the same as it used to be. The pressure on children was not much when farming was for subsistence. However, at present, owing to heavy economic pressure on small farmers (due to the increasing market orientation of agriculture), the pressure on children has become quite severe. It is a well-known fact that the poorer sections of the farmers are the worst hit during any monsoon failure or economic crisis. Thus, the children of these farmers are also hard hit.
- **Children working for others as bonded labourers in agriculture** are subjected to long hours of work, with or without pay, lack of freedom and other rights to play, leisure and education.
- **Children working in home-based manufacturing** (like beedi-making, carpet-weaving, gem-polishing, etc.) face severe deprivations, as they work as part of the family at the cost of their basic rights. There is also an element of bondage among many children working in such home-based/cottage production.

- **Children working in harmful occupations and processes** (such as matches and                      manufacture, tanneries, knife-making, glass industry, brassware, etc.) face health hazards and are deprived of their education and other developmental rights. They are usually paid low wages and in most cases the wages are paid to the contractors or parents.
- **Children working separated from their parents and family** often work long hours with low wages or no wages (child domestics),                      to strangers' houses, exposed to all forms of abuse, inaccessible to their parents for long years, with no one to care for them.
- **Children working in formal sectors of production** (such as supply chains of organised factories) work long hours, face health hazards and are deprived of education.
- **Bonded child labour:** Children are pledged by their parents/guardians to employers in lieu of debts or payments. The rates of interest on loans are so high that the amount to be repaid accumulates every year, making repayment almost impossible.
- **Invisible child labour:** Children who work in the unorganised or/and informal sectors do not come under the purview of law. Children at work in these unorganised or/and informal sectors constitute a substantial proportion of the child labour in the country and most of them are out of school.
- **Migrant child labour:** Children migrate either alone or with family members or villagers from rural to urban areas or from smaller towns to larger towns/cities because of reasons such as                      earthquake and other natural calamities; armed                      communal clashes, caste discrimination and atrocities; to escape from bondage; corporal punishment in school; ill-treatment by family members and family disputes, etc. Pushed out from their native places, these migrant children are vulnerable to abuse and exploitation in the places of their destination.

#### **ECONOMIC SPHERES WHERE CHILDREN WORK**

- **Agrarian Sector:** In rural areas children are engaged in agricultural and allied occupations as a part of family labour

or as individual workers. They may work as paid or unpaid workers in different forms.

- **Mining Sector:** Children are engaged in various processes of illegal mining. Very often they work in sub-human conditions and in exploitative situations. Many of them are migrant labour and they remain invisible labour working for low wages.
- **Service Sector:** Children work as self-employed or as part of family labour, in *dhabas* (roadside eateries), and automobile workshops or as vendors, ragpickers, scavengers, etc.
- **Street Children:**
  - *Children on the Streets:* These are working children who have families but spend most of their time on the streets. They earn for themselves and may or may not contribute to the family income.
  - *Children of the Streets:* These are working children who have left their families in villages or towns and have migrated to the city. They do not have a place to live and hence spend their nights at the railway platforms, bus stations, etc. They live independently and usually spend all that they earn the same day.
  - *Abandoned/Orphaned Children:* These comprise working children without families or whose families have abandoned them. They spend their lives on the streets without any kind of support and are hence the most exploited and abused of the lot.
- **Within the Family:** Children are engaged without pay in domestic household tasks, agricultural/pastoral work, handicraft/cottage industries, etc.
- **Within the Family but Outside the Home:** Children do agricultural/pastoral work, which consists of (seasonal/full-time) migrant labour, local agricultural work, domestic service, construction work and informal occupation, e.g. recycling of waste; they might be employed by others or self-employed.
- **Outside the Family:** Children are employed by others in bonded work, apprenticeship, skilled traders (carpet, embroidery, brass/

copper work), industrial unskilled occupation/mines, domestic work, commercial work in shops and restaurants. Children who are abused for begging, prostitution and pornography also belong to this category.

## LEGISLATION DEALING WITH CHILD LABOUR

### (i) Select Constitutional Provisions on Child Labour

India follows a proactive policy in tackling the problem of child labour. The Constitution of India has adopted the following articles, which reflect the nation's concern for children in general and child labour in particular:

- **Article 21(a): Constitution (Eighty-sixth Amendment) Act, 2002:** The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.
- **Article 23: Prohibition of *begar* in Human Beings and Forced Labour:** *begar* in human beings and 'begar' and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.
- **Article 24: Prohibition of Employment of Children in Factories etc.:** No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any hazardous employment.
- **Article 39 (e) and (f): Certain Principles of Policy to be followed by the State:** The State shall, in particular, direct its policy towards securing:
  - (e) That the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength.
  - (f) Those children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

**(ii) Child Labour (Prohibition and Regulation) Act, 1986 (CLPR Act)**

The salient features of the Act are:

- 'child' as a person who has not completed 14 years of age
- Bans the employment of children below 14 years in (18) occupations and (65) processes
- Lays down a procedure to make additions to the Schedule of Prohibited Occupations or Processes
- Regulates the working conditions of children in occupations where they are not prohibited from working
- Lays down penalties for employment of children in violation of the provisions of this Act, and other Acts which prohibit the employment of children

***Prohibition of Employment of Children in Certain Occupations and Processes:*** Section 3 of the CLPR Act states: 'No child shall be employed or permitted to work in any of the occupations set forth in Part "A" of the Schedule or in any workshop wherein any of the processes set forth in Part "B" of the Schedule is carried on. Provided that nothing in this section shall apply to any workshop wherein any process is carried on by the occupier with the aid of his family or to any school established by, or receiving assistance or recognition from Government.' The penalties are in Section 14 of the CLPR Act as '(1) Whoever employs any child or permits any child to work in contravention of the provisions of Section 3 shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to one year or with \_\_\_\_\_ which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees or with both. (2) Whoever, having been convicted of an offence under Section 3, commits a like offence afterwards, he shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years.'

Occupations and processes where the employment of children is prohibited include:

*Occupations:* Any occupation connected with:

- Transport of passengers, goods or mails by railway
- Cinder picking, clearing of an ash pit or building operation in the railway premises
- Work in a catering establishment at a railway station, involving the movement of a vendor or any other employee of the establishment from one platform to another or into or out of a moving train
- Work relating to the construction of a railway station or with any other work where such work is done in close proximity to or between railway lines
- A port authority within the limits of any port
- Work relating to selling or crackers and in shops with temporary licences
- Abattoirs/slaughter houses
- Automobile workshops and garages
- Foundries
- 
- Handloom and power loom industry
- Mines (underground and underwater) and collieries
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- Employment of children as domestic workers or servants
- Employment of children in *dhabas*, restaurants, hotels, motels, teashops, resorts, spas or other recreational centres
- Diving
- Caring of elephants
- Children working in a circus

*Processes*

- Beedi-making
- Carpet-weaving
- Cement manufacture, including bagging of cement
- Cloth-printing, dyeing and weaving

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- Mica-cutting and splitting
- Shellac manufacture
- Soap manufacture
- Tanning
- Wool-cleaning
- Building and construction industry
- Manufacture of slate pencils (including packing)
- Manufacture of products from agate
- Manufacturing processes using toxic metals and substances such as lead, mercury, manganese, chromium, cadmium, benzene, pesticides and asbestos
- 'Hazardous processes' as defined in Section 2(cb) and 'dangerous operations' as defined in rules made under Section 87 of the Factories Act, 1948 (63 of 1948)
- Printing as defined in Section 2(k)(iv) of the Factories Act, 1948 (63 of 1948)
- Cashew and cashewnut descaling and processing
- Soldering processes in electronic industries
- 'Aggarbatti' manufacturing
- Automobile repairs and maintenance including processes incidental thereto, namely welding, lathe work, dent-beating and printing
- Brick kilns and roof tiles units
- Cotton ginning and processing and production of hosiery goods
- Detergent manufacturing
- Fabrication workshops (ferrous and non-ferrous)
- Gem-cutting and polishing
- Handling of chromite and manganese ores
- Jute textile manufacture and coir-making
- Lime kilns and manufacture of lime
- Lock-making

- Manufacturing processes having exposure to lead, such as primary and secondary smelting, welding and cutting of lead-painted metal constructions, welding of galvanised or zinc silicate, polyvinyl chloride, mixing (by hand) of crystal glass mass, sanding of scrapping of lead paint, burning of lead in enamelling workshops, lead-mining, plumbing, cable-making, wire-patenting lead casting type found in printing shops, assembling of cars, shot-making and lead glass-blowing
- Manufacture of cement pipes, cement product and other related work
- Manufacture of glass, glassware including bangles, tubes, bulbs and other similar glass products
- Manufacture of dyes and dye stuff
- Manufacturing or processing and handling of pesticides and insecticides
- Manufacturing or processing and handling of corrosive and toxic substances, metal-cleaning, photo-engraving and soldering processes in the electronic industry
- Manufacturing or burning coal and coal briquettes
- Manufacture of sport goods involving exposure to synthetic material, chemicals and leather
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- Paper-making
- Potteries and ceramic industry
- Polishing, moulding, cutting, welding, manufacture of brass goods in all forms
- Processing in agriculture where tractors, threshing and harvesting machines are used and chaff-cutting
- Saw mill – all processes
- Sericulture processing
- Skinning, dying and processes for manufacturing of leather and leather products
- Stone-breaking and stone-crashing

- Tobacco-processing including manufacturing of tobacco, tobacco past and handling of tobacco in any form
- Tyre-making, repairing, retreading and graphite benefaction
- Utensils-making, polishing and metal-burring
- Zari-making (all processes)
- Electroplating
- Graphite-powdering and incidental processing
- Grinding and glazing of metals
- Diamond-cutting and polishing
- Extraction of slate from mines
- Ragpicking and scavenging
- Processes involving exposure to excessive heat (eg. working near a furnace) and cold
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- Food processing
- Beverage industry
- Timber handling and loading
- Mechanical lumbering
- Warehousing
- Processes involving exposure to free silica such as slate, pencil industry, stone grinding, slate stone mining, stone, quarries, agate industry

### **(iii) National Child Labour Policy, 1987**

The Government of India has always followed a proactive policy towards elimination of child labour. The Constitution of India not only secures compulsory primary education to all children but has, through its 86<sup>th</sup> Amendment, made the Right to Education a fundamental right for all children in the age group of 6-14 years. In addition, several other initiatives have been taken from time to time for protection of children from a variety of forms of exploitation and to ensure that all children are brought into the purview of schooling. In consonance with the overall framework, the National Policy on Child Labour was formulated in 1987. The components of the policy are:

- Legislative Plan of Action, which envisages strict enforcement of laws and rules relating to child labour
- Project-based Plan of Action in areas of high concentration of child labour in wage/quasi-wage employment
- Convergence of services of general development programmes for economic rehabilitation of child labour families

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# **Health Insecurities and Protection of Workers in Informal Employment**

**Dr. Ruma Ghosh\***

## **INTRODUCTION**

While the process of globalisation has led to growth in the economy and new employment avenues, most of the employment created is informal in nature and of poor quality, with low productivity. As per the NSSO, informal workers account for 92% of the total workers. Out of the 472 million workers in 2011-12, about 392 million or 83% were estimated to be working in the unorganised or informal sector comprising privately owned enterprises employing less than 10 workers. Even the organised sector, which accounts for 80 million workers, had 46 million workers (58%) in the informal category of employment. A look at the different employment categories shows that self-employment is the most dominant component, with a 52.2% share in total employment. Studies have noted that in the post-liberalisation period when Indian industry experienced an expansion in international trade, changes have taken place in the labour market. Although changes in the labour laws have not been made, yet there has been a general weakening of the bargaining power of workers through relaxed enforcement mechanisms, increased use of contract labour, changing nature of the workforce (with increased casualisation and feminisation), and a general weakening of the trade unions (Pages and Roy, 2006; Bhattacharjea, 2006; Ahmad and Pages, 2006). Such changes in the labour market has affected a large population base engaged in industrial activity, as the growth of the informal economy implies increasing insecurity and vulnerability of workers.

## **HEALTH INSECURITIES OF WORKERS IN INFORMAL EMPLOYMENT**

One major insecurity faced by workers is with regard to their health and safety at the workplace. Workplace hazards and occupational health problems including diseases of various kinds, such as of the

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respiratory system, digestive system, urinary tract, nervous system and other sensory organs, hearing impairment, musculoskeletal disorders, reproductive health issues and dermal allergies, are a major impediment for workers (Saiyed and Tiwari, 2004). As the work environment constitutes over a third of the lifespan of adults and contributes to their overall individual health and productivity, it is important to ensure a healthy working atmosphere. However, the chronic insecurity of informal workers often force them to work in extremely hazardous working conditions.

The International Labour Organization made a region wise global estimate of fatal, non-fatal accidents, diseases and mortality based on data for 2003. It estimated that in India out of the total 473.3 million economically active population in 2003, as many as 47,000 had met fatal accidents, 44,000 had accidents causing  $\geq$  four days absence from work, 3,56,000 suffered from work related diseases and there were as many as 4,03,000 mortality (ILO, 2008). The World Health Organization (WHO) estimates that only 10-15% of the workers have access to basic occupational health services. According to a World Bank estimate, two-thirds of disease burden (mortality and morbidity) and its equivalents (e.g., disability adjusted life years or DALYs) from occupational causes could be prevented by occupational health and safety (OSH) programmes, thereby increasing the productivity of the workers as well the performance of the economy. Moreover, the occupational health scenario is undergoing a paradigm shift as a result of the ongoing globalization of the world economies and rapid industrialisation in the developing countries.

Although the Constitution of India, through the Directive Principles of State Policy, provides for the management of safety and health risks at workplaces through Article 39 (for securing the health and strength of employees including men, women and children) and Article 42 (for just and humane conditions of work and maternity relief), yet the majority of the workforce is left outside the purview of any regulatory framework. At present, comprehensive safety and health statutes for regulating OSH at workplaces exist only in respect of four sectors, namely, mining, factories, ports and construction.

The lack of access to adequate health facilities further aggravates the vulnerability of the workers. The poor availability and access to health services and the burden of occupational diseases may cause an economic loss of up to 10-20% of the gross national product (Zodpey et al., 2009). Further, with the absence of an integrated public healthcare or universal social health insurance system, a sizeable section of even the well-off are pushed into a situation of abysmal poverty because of the catastrophic health expenditures (Krishna, 2004; van Doorslaer et al., 2006; Garg and Karan, 2009). This situation has become particularly since many governments in the developing countries have been obliged to implement structural adjustment programmes, which have led to sharply reduced expenditure on public health services. Higher user charges have raised barriers for many people with low health status and low income.

Health care systems affect income and livelihood in two ways. The availability of adequate, preventive and curative care is vital to ensure that workers are to earn a living for themselves and their dependents. And it is the function of the health care system to ensure that large and unpredictable costs of health care do not have catastrophic effects for individual households. Health care is equally important for everyone regardless of labour force participation or employment status. However, many workers, particularly those who are outside regular wage employment, do not have any satisfactory health coverage in many developing countries. As a result, millions of people around the world are prevented from seeking and obtaining needed care because they cannot afford to pay the heavy treatment charges (Preker et al., 2001). This often leads to hardship and even impoverishment, because people are too ill to work. The other side of the coin is that many of those who seek health care suffer catastrophe and impoverishment as a result of meeting these costs. This occurs in both rich and poor countries (Xu et al., 2003). An episode of severe ill-health imposes both direct and indirect costs. Direct costs are incurred in the form of treatment and travel expenses for seeking treatment. Moreover, if the individual is economically active, sickness can result in loss of income.

In India, although there has been accelerated economic growth during the last two decades, yet the country has fared poorly in terms of human development indicators and health outcomes, which is through the performance of health status indicators such as infant and maternal mortality which are very high compared with countries having similar income levels and rates of economic growth. The factors largely responsible for the persistent and ever-widening differentials in health outcomes are socio-economic inequities and inequities in provision of and access to health services. Availability, accessibility and affordability of health services are important determinants for improving the health of the population. Healthcare and arrangements play a critical role in reducing or perpetuating inequities and shape the pattern of health service use and expenditure (Gilson et al., 2007; Baru et al., 2010).

Although National Health Policies have been formulated in India from time to time for achieving the goal of Health for All by 2000 and for attaining an acceptable standard of good health, yet in reality ensuring an effective public health care delivery system has been a huge challenge. India is one of the countries with very low government spending on health. Over the years, there has been only a marginal increase in public investment in health, from 0.9% of the GDP in 2004-05 to 1.1% in 2008-09. The decline in government health expenditure is also in the decline in state expenditure on medical and public health and family welfare. The decline in the share of the states' health expenditure as compared to total expenditure has been quite dropping from almost 5% in 1999-2000 to almost 4% in 2009-10. As states account for three-quarters of all government spending, any decline in the share of health expenditure by states total spending to a great extent. As a result, although there is a government-owned free health care delivery chain, over 70% of the total spending is by individuals privately, most of it being out-of-pocket. This has led to almost 64% of the poorest population in India getting into a debt situation every year to pay for essential medical care. Added to this is the fact that the large majority of the working population in the informal sector is outside the purview of any formal health insurance cover such as

the Central Government Health Scheme (CGHS), Employees' State Insurance Scheme (ESIC), etc.

As per the findings of NSSO, 85% of the informal sector workforce do not have any kind of insurance, and only less than 1% of the hospitalisation in the rural areas and about 4% in the urban areas get some form of reimbursement (NSSO, 2006). This raises concerns with regard to the catastrophic out-of-pocket spending, especially by households in the informal sector. Secondly, there seems to be an even greater burden on the rural than the urban population. This is because compared to rural India, in urban areas a range of facilities, such as hospitals, community health centres of both government and private sectors, exist and are widely utilised by the urban communities. In the rural areas, the quality of these services, especially those provided by the government, is of very poor quality (Dreze and Sen, 1995), forcing individuals to visit the private sector instead. Moreover, research has shown that indirect costs associated with treatment, like those associated with travel to the facilities, act as deterrents for the rural population (Uplekar and George, 1994). In fact, many urban areas witness large influxes of rural populations to the major hospitals, indicating the absence of similar facilities in the rural areas.

## **HEALTH SECURITY AND PROTECTION OF WORKERS IN INFORMAL EMPLOYMENT**

Taking the above issues in to consideration, there is a need to provide health security and protection to the vast number of workers in the informal sector through a comprehensive health security programme. Health security can be thought of as having low exposure to risk, plus having access to health care services with the ability to pay for care and medicine. Such health security should be equally available and accessible to all workers irrespective of the sector in which they are involved. The ILO Convention 102 on Social Security (Minimum Standards) consolidates the concept of social security by including nine core contingencies leading to the cessation/reduction of earnings covering sickness, maternity, employment injury, unemployment, invalidity, old age and death, provision of medical care and subsidies for families with children.

However, as we have seen, the dualism in the Indian labour market has resulted in a large segment of the workforce—workers in the unorganised sector workers—being excluded from the labour regulatory framework. As a result, social security provisions including health security and adequate labour standards are not universally applicable, leaving out a large majority of the workers in the informal economy.

Thus, there is a strong need for labour law reforms in order to bring the majority of the workers under the ambit of regulation and for a general (umbrella) legislation covering safety and health aspects of workers employed in all sectors of economy irrespective of the number of employees employed in those units.

It is seen that the agricultural sector provides employment to the largest number of persons, which is about 48% of the total workforce. However only two legislations the Insecticides Act, 1968 and The Dangerous Machines (Regulation) Act, 1983 and their Rules are applicable to aspects of agricultural operations. The Insecticides Act, 1968, 1983 deals with the manufacturing, packaging, labeling, distribution, handling and use of insecticides in general. Therefore, the control measures given in this Act relating to the hazards in the use of insecticides are applicable to the agriculture sector also. This Act is enforced by the State Agriculture Departments as far as its applicability to the agricultural operation is concerned. The Dangerous Machines (Regulation) Act, 1968 is enacted as “An Act to provide for the regulation of trade and commerce in, and production, supply, distribution and use of, the product of any industry producing dangerous machines with a view to securing the welfare of labour, operating any such machine and for payment of compensation for the death or bodily injury suffered by any labourer while operating any such machine, and for matters connected therewith or incidental thereto.” This Act applies to the dangerous machines, as under the Act, intended to be used in Agriculture or rural sector. The enforcement of this Act also lies with the State Agricultural Departments. However as is well known there is not much awareness of these Acts and therefore initiatives should be made to create awareness of these provisions, so that the

The construction industry in India which is the second largest industry after agriculture in terms of employment generation, employs about 44.1 million workers comprising 9.6% of the total workforce (National Sample Survey Organisation, 2011-12). Construction workers are one of the most vulnerable segments of unorganised labour in the country who are exposed to a wide variety of serious occupational safety and health hazards. The Indian construction industry comprises of large construction including large public sector undertakings. About one lakh medium and large of contractors and sub-contractors execute small jobs including repairing. The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1986 is applicable to all establishments employing 10 or more workers in any building and other construction works. The Chief Labour Commissioner (Central) is entrusted with the task of enforcement of this Act and the Central Rules. As a Director General of Inspection, the Chief Labour Commissioner has been vested with Quasi-judicial powers. Based on the inspections carried out since the year 2000-01, it has been seen that the nature of violations relating to safety provisions under the Act predominantly relates to provision of: (i) Medical facilities such a boxes, essential life saving aid, ambulance room, ambulance van, stretcher etc., (ii) Preparation of health and safety policy, (iii) Transport equipment and (iv) Excessive noise and vibration and (v) Fire Protection. The accidents in construction industry are mainly due to the factors such as:

- 1.
2. Shorter duration of construction activities at sites
3. High-turnover of workers
4. Large number of seasonal and migrant workers not familiar with construction activities.
5. Many different trades and occupations involved in construction activity.

Although the Act of 1996 gives a wide coverage to take care of OSH of construction workers, there are a large number of construction workers who do not come under the purview of the Act. Such issues should be taken up as priority in order to prevent the large work force of the construction sector from any OSH related problems.

With regard to the manufacturing sector which involves also a large base of workforce, initiatives should be taken to ensure that the objective of improving the working conditions in the manufacturing sector (including small units) through regulatory measures irrespective of the size of the establishments.

There is also a need for implementation of National Policy on Occupational Safety, Health & Environment at Workplace through time bound implementation of its action programme. Moreover there is a need for an increase in trained occupational health professionals including occupational physicians, industrial hygienists and safety specialists, as well as development of a culture of OHS consciousness among workers, employers and enforcement agencies. Regulatory reforms are needed to ensure that occupational health laws cover all workers, including those in the informal sector as well as those engaged in agriculture.

Finally taking a clue from the *Survey of NISSO*, that almost 85% of the informal sector workforce do not have any kind of health insurance (NISSO, 2006), a health insurance coverage called Rashtriya Swasthya Bima Yojana (RSBY) was launched in 2008. Although the programme had a lot of merit, yet it was restricted to BPL households and for hospitalisation expenses only, thereby leaving out a large segment of informal workers who do not have adequate means for treatment as well as for treatment in OPD. There is a need to redesign the programme and bring under its fold all workers involved in informal employment as well as meeting the OPD expenses. Moreover, as the country has one of the largest health security system in place – the ESIC, initiatives should be taken to explore the possibilities of using this largest health security chain to provide health insurance to workers in the informal employment.

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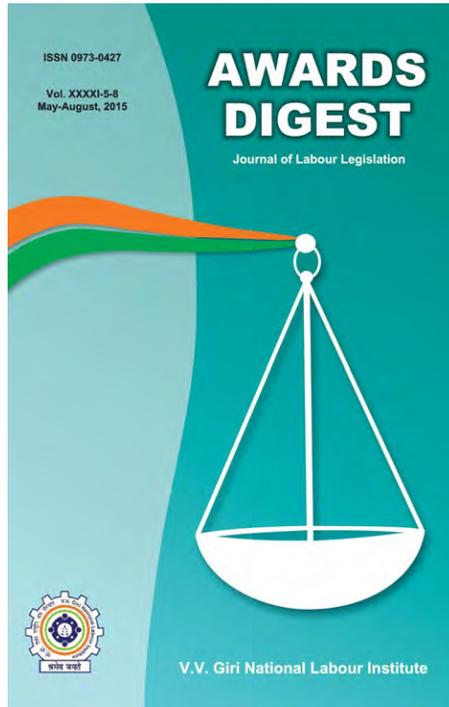
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## Gender Issues in Labour

Dr. Shashi Bala\*, Dr. Ellina Samantroy\*\*

The dynamics of employment patterns of men and women have attracted the attention of many labour statisticians and policymakers. Socially constructed gender roles, the biological differences between men and women, and how these interact in the world of work lie at the core of the 'decent work' agenda of the International Labour Organization (ILO) and have been discussed in many international forums. The Beijing Platform for Action 1995 the commitment to promote women's economic independence, including employment, and eradicate the persistent and increasing burden of poverty on women by addressing the structural causes of poverty through changes in economic structures, ensuring equal access for all women, including those in rural areas. The realisation of equal rights, opportunities and access to resources, and equal sharing of responsibilities for the family by men and women, are critical to the well-being of both their families and also the nation. The UN Millennium Development Goals have also reiterated full and productive employment and decent work for all. Despite these achievements and progress in implementing women's empowerment and gender equality programmes, there is still a long way to go.

With the introduction of globalisation and international competition, the labour market has undergone tremendous changes. Disappointing job growth, increasing informalisation and poor-quality jobs continue to characterise the labour markets of many developing countries like India. Despite high growth rates of the Indian economy in the recent years, women's participation in the labour force has been low and has seen a decline in the recent decades. Women's labour force participation fell in rural areas from 126.49 million in 2004-05 to 106.2 million in 2009-10. In urban areas, women's labour force participation declined from 26.50 million in 2004-05 to 24.2 million in 2009-10 (Government of India (GoI), 2011).

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There was a further decline in women's labour force participation in rural areas in 2011-12, as estimated by the 68<sup>th</sup> round of the National Sample Survey Organisation (NSSO). The labour force participation for women in rural areas was 103.6 million in 2011-12, though there was a marginal increase (28.8 million) in labour force participation for women in urban areas (GoI, 2013).

In this scenario, there is a growing necessity for the formulation of effective employment policies and active labour market policies aimed at ensuring labour-intensive growth. Given the gendered nature of labour markets, mechanisms are needed so that gender concerns are mainstreamed in policy discourse. Keeping in view the above background, the present chapter provides a comprehensive understanding about gender issues in the labour market. It will highlight the inequalities prevalent in the world of work and the challenges faced by women in the labour market, particularly in the informal sector. The chapter also provides an overview of gender and development issues related to work, education, skill, wages, social protection, international labour standards/international instruments, developmental policies and legislative measures pertaining to women workers.

## **GENDER AND WORK**

The employment trends in India are a of the highly complex labour market prevalent in the country. As discussed above, women continue to remain in a disadvantageous position as female labour force participation continues to decline over the years as in various NSS rounds. A low female Labour Force Participation Rate (LFPR) is responsible for pushing India's overall LFPR to the bottom ranks. Out of 184 countries for which data were available in 2008, India was ranked 42<sup>nd</sup> in male LFPR (in descending order of LFPR), but 165<sup>th</sup> and 143<sup>rd</sup> in female LFPR and overall LFPR respectively, as reported in World Development Indicators of the World Bank (Thomas, 2012). Moreover, a large section of women are absorbed in the informal sector, particularly in casual work, piece rated work and work within the household that remains invisible in the statistical sources. An analysis of the employment status reveals that 59.3% of rural women were engaged as self-employed workers, in

comparison to 54.5% males in rural areas. Further, the share of casual labour in rural areas was 35.1% for females and 35.5% for males. In urban areas, the share was 14.3% for females and 14.9% for males. The share of regular wage/salaried employment in total workforce was higher in urban areas as compared to the corresponding share in rural areas. While 10% males and 5.6% females were engaged in regular/salaried employment in rural areas, 43.4% males and 42.8% females were engaged in such employment in urban areas (GoI, 2013). Low-income women workers, especially in the informal sector, are one of the most vulnerable groups in the Indian economy due to irregular work, low economic status, little or no bargaining power, lack of control over earnings, the need to balance paid work with care and domestic work, little or no access to institutional credit, lack of training and information, lack of assets, etc.

Apart from gender inequalities as seen in women's concentration in certain industries and sectors of the economy, the devaluation of their contribution as unpaid workers has persisted. All of women's work in the domestic sphere is excluded from the realm of economic activity, remains largely invisible, and is not in the workforce participation rate. Unpaid work usually includes all non-remunerated work including all activities carried out for the household that are not destined for the market. Feminist economists have led the call for unpaid care work to be 'counted' in statistics, 'accounted for' in representations of the economy, and 'taken into account' in policymaking (Elson, 2000). The non-recognition of unpaid care by the policymakers is in various studies on missing labour force conducted in India (Hirway, 2012; Jain, 2008). These studies have been critical of the labour force surveys including NSSO in capturing women's work accurately (Samantroy and Khurana, 2015).

A recent report of the NSSO, *Participation of Women in Activities along with Domestic Duties* (2014), has clearly brought out that the participation of women in domestic duties in the age group of 15-59 years had increased from 53% in 2004-05 to 61.6% in 2011-12 in rural areas. However, the percentage in urban areas remained constant at 65.3% for both the rounds. It was that the proportion was highest for women in the age group of 30-

44 years, i.e. about 94% in rural areas and 95% in urban areas (GoI, 2014a).

Given their vulnerable status at home and at work, income generation alone may not improve the socio-economic status of women working in the informal sector. Their economic empowerment needs to go hand in hand with social empowerment, which could improve their bargaining power both in the household and at work. While framing policies for the informal sector workers, particularly women, there is a need to consider their work burden and the constraints on their time which they divide between various roles.

## **GENDER AND EDUCATION**

Education is the single most important factor which paves the way to development in all spheres of life, which in turn would lead to gender equality and women's empowerment. According to Census 2011, the female literacy rate is just 65.46%, while the male literary rate is more than 82%. The District Information System for Education (DISE) report showed that in 2013-14 the enrolment of girls in primary education was 48%, whereas that of boys was 52%. In upper primary it was 49% for girls and 51% for boys, in secondary it was 47% in case of girls and 53% in case of boys, and the same percentage was also found in senior secondary education. In 2012-13, 45% girls were enrolled in higher education as against 55% boys and the gender parity index is found to be 0.88 in higher education in the age group 18-23 years (GoI, 2014b and 2014c).

In order to encourage education for women at all levels and for promoting greater gender equality, the Government of India has launched various programmes like Sarva Shiksha Abhiyan (SSA), District Primary Education Programme (DPEP), Mid-day Meal Scheme, Kasturba Gandhi Balika Vidyalaya (KGBV), appointment of Shiksha Karmi, Mahila Samakhya, National Programme for Education of Girls at Elementary Level (NPEGEL), Padhe Bitiya Badhe Bitiya, Ladali Scheme, Integrated Education for Disabled Children (IEDC), Vocationalisation of Education, etc.

## **GENDER AND SKILL GAP**

The aim of skill development in the case of women is not merely to prepare them for jobs, but also to improve the performance of women workers by enhancing the quality of work in which they are engaged. Women face complex ground realities, including low levels of literacy, discriminatory social customs and traditions, limited hours available for training and work, limited exposure, unfamiliarity with new technology. Hence, to encourage women's enrolment it is essential to make the skill development process

The National Skill Development Mission, headed by the Prime Minister, was launched in 2008 and a Co-ordinated Action Plan for Skill Development was formulated with a three-tier structure that includes (a) the Prime Minister's National Council on Skill Development, (b) the Skill Development Co-ordination Board to devise detailed strategies, and (c) the National Skill Development Corporation (NSDC), a company registered under the Companies Act of 1956. The role of the corporation is to identify the full range of skill development needs and to develop processes with special emphasis on excellent standards and training of trainers and proper delivery of training.

Vocational education and training also plays an important role in furnishing technical and management skills, and helps to develop appropriate attitudes for occupations and jobs in women. Considering the low participation of women in vocational education, the government has established various vocational training institutes in different parts of the country that have a special focus on women; these include the National Vocational Training Institute (NVTI) and Regional Vocational Training Institute (RVTI).

Presently the government has set up a separate Ministry of Skill Development and Entrepreneurship. To achieve high inclusivity from the gender perspective, the government has framed goals such as skill development with greater gender equity in access to training; development of guidelines on women-related issues in skill training procedures, including a gender-sensitive training environment and employment of women trainers; equity in

remuneration and complaint redressal mechanisms; and creation of an internet- or mobile-based platform of employment exclusively for women by connecting skilled women and employers. The government also plans to make efforts to encourage women entrepreneurs through appropriate incentives for women-owned businesses under the public procurement process; ensure priority for mentorship and support system for women entrepreneurs in existing business centres and incubators; build entrepreneurial capacity for women by facilitating access to capital at relaxed credit terms; etc.

### **GENDER PAY GAP**

Gender wage differentials are often a result of perceptions of women's labour productivity or levels that constrain their opportunities and ability to secure remuneration at par with their male counterparts. According to the Equal Remuneration Act, 1976, it is the duty of the employer to pay equal remuneration to men and women workers for the same work or work of similar nature, and no discrimination is to be made while recruiting men and women workers. However, there is substantial evidence of differential wage rates for men and women in the country. In India, across industries, female workers get 48% less wage than their male counterparts on average (Chaudhuri and Panigrahi, 2013). According to the NSSO report (2013), the daily wages of regular wage/salaried male workers of age 15-59 years in rural areas was ₹ 322.28, while for females it was ₹ 201.56. In urban areas, daily wages received by male regular workers was ₹ 469.87; for females it was ₹ 366.15. Daily wages received by casual workers engaged in works other than public works in rural areas was ₹ 149.32 for males and ₹ 103.28 for females. In urban areas, wage rates were ₹ 182.04 and ₹ 110.62 for males and females, respectively. The daily wages received by casual workers engaged in public works other than those related to the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) in rural areas was ₹ 127.39 for males and ₹ 110.62 for females; for those engaged in MGNREGA works in rural areas, the corresponding were ₹ 112.46 and ₹ 101.97, respectively (GoI, 2013).

## **DISCRIMINATION AT WORKPLACE**

Gender discrimination involves the unfair treatment of an applicant or employee because of the person's sex. In order to prevent discrimination and ensure gender equality at the workplace, various initiatives have been undertaken by the Government of India, including the Equal Remuneration Act, 1976; setting up of the **National Commission for Women (a statutory body with a mandate to study and monitor all matters relating to the constitutional and legal safeguards provided for women) in 1992**; and the Sexual Harassment of Women at Workplace Prohibition, Prevention & Redressal Act, 2013. For the safety of women at the workplace, the Federation of Indian Chambers of Commerce and Industry (FICCI) and FICCI Ladies Organisation (FLO) have given some recommendations, such as clear display of emergency contact numbers, well-lit work areas, staircases and parking lots till the last woman employee leaves the site, separate and secure toilets for women close to their workstation, strict surveillance of visitors, provision of company transport for women working in night shifts, work arrangements, setting up of a sexual harassment committee, strict disciplinary action against those found violating the code of conduct and many more. Employers in India are fast realising the importance of creating a healthy work environment that supports a work-life balance, and integrating policies and programmes to assist employees through important phases in life, such as pregnancy, childbirth, infertility, adoption, etc. Many corporations in the country are implementing various programmes supporting pregnant working women and working mothers to balance work and personal life.

## **GENDER AND SOCIAL PROTECTION**

Social protection refers to: 'all interventions from public, private and voluntary organizations and informal networks which support communities, households and individuals in their efforts to prevent, manage and overcome risks and vulnerabilities' (Shepherd et al., 2004). Several scholars investigating gender and social protection have highlighted the vulnerability of women's position with respect to employment and social protection, given the fact that they stand

at the crossroads of the paid and unpaid care economy, being over-represented within the informal economy and disproportionately implicated in the unpaid work that goes into taking care of families and households (Razavi, 2011). Social norms related to the responsibilities of men and women entail an additional work burden for women as they are expected to undertake care and domestic work along with paid work. Hence, policy initiatives to provide social security to women are important in ensuring equality in opportunity and conditions of work.

Various labour and social security legislations such as Employees' State Insurance Act, 1948, the Employees' Provident Fund and Miscellaneous Provisions Act, 1952, the Maternity Act, 1961, the Payment of Gratuity Act, 1972, etc. have been enacted from time to time. Programmes to cover unorganised workers in India include MGNREGA, 2006, and the Unorganised Workers' Social Security Act, 2008. Under the latter the National Social Security Board was constituted in 2009. It recommended that social security schemes, viz. Rashtriya Swasthya Bima Yojana (RSBY) providing health insurance, Janashree Bima Yojana (JBY) providing death and disability cover, and Indira Gandhi National Old Age Pension Scheme (IGNOAPS) providing old age pension, may be extended to building and other construction workers, MGNREGA workers, *Accredited Social Health Activist* (ASHA) workers, Anganwadi workers and helpers, porters/coolies/foremen, and casual and daily wagers.

## **LABOUR LAWS PERTAINING TO WOMEN IN INDIA**

India has undertaken various policy measures and legislations for the protection of women workers. It has formulated laws and policies such as the Equal Remuneration Act, 1976, following of international labour standards like ILO conventions (for instance, the equality convention C100, the equal remuneration convention, 1951, and the discrimination (employment and occupation) convention C111); Maternity Act, 1961, following the ILO equality convention C183 and the maternity protection convention, 2000; and Employees' State Insurance Act. In addition to these legal initiatives, there are other labour laws that guarantee certain safeguards to women workers, such as the Employees' Provident

Fund and Misc. Provisions Act, 1952; Factories Act, 1948; Industrial Disputes Act, 1947; Payment of Bonus Act, 1965; Payment of Gratuity Act, 1972; Workmen's Compensation Act, 1923 etc. For example, The Factories Act, 1948, has various provisions of interest to women (Sections 19, 22(2), 27, 42(1)(b), 48, 66, 79(1) and 114) which prohibit the employment of women in cleaning, lubricating or adjusting certain machinery when it is in motion, stipulate provision of suitable sanitation facilities and a free creche on the premises for children under six years of age in establishments employing more than 30 women, and prohibit the exemption of women from the requirement that the maximum working day for adults is nine hours.

### **SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013**

The Government of India passed the Sexual Harassment Act in 2013, which has been a significant step in safeguarding the dignity and freedom of working women. The rules were framed by the Ministry of Women & Child Development on 9 December 2013. The measure relating to resolution and prevention of sexual harassment at the workplace were the Supreme Court's 1997 Vishaka Guidelines, which was triggered by the Bhanwari Devi case. It is envisaged as a comprehensive legislation covering every workplace, whether in the organised or unorganised sector, and aims to provide women, irrespective of their age or status, a safe and secure environment free from sexual harassment. The Act contributes to safeguarding women's right to life, liberty and equality in working conditions, thereby improving women's work participation, and promoting economic empowerment and inclusive growth.

### **GENDER AND DEVELOPMENT: POLICIES AND PROGRAMMES**

Various policies and programmes intended for the empowerment of women have been implemented, for which special budgetary allocations are made in the Five-Year plans. The Planning Commission's 'Plans and Prospects for Social Welfare in India 1951-1961' was the first to discuss the status of women in the country; it pointed out that 'women are considered to be handicapped by social

customs and social values and, therefore, social welfare services have specially endeavoured to rehabilitate them'. It three major areas—education, social welfare and health—for women's development. National Action Plan, 1976, based on UN guidelines, areas of health, family planning, nutrition, education, employment, legislation and social welfare for formulating and implementing of action programmes for women.

In the 7<sup>th</sup> plan a new scheme for Women's Development Corporation was taken up for promoting women's employment-generating activities by supporting schemes from women's groups and women from poorer sections of society. A women's development planning and monitoring cell was also set up for collection of data and monitoring of plan programmes. The government has set up national resource units for women which act as apex bodies for promoting and incorporating gender perspectives in politics and programmes of the government. To achieve the goals laid down therein, a number of initiatives, such as the enactment of legislation to ban sex determination tests to prevent female foeticide, have been launched. The 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendment Acts of 1993 ensure reservation of 1/3 of seats for women in all elected of local bodies, in rural and urban areas.

The National Policy for Empowerment of Women, 2001, aims at upliftment, development and empowerment of women in socio-economic and politico-cultural aspects, by creating awareness on various issues related to women's empowerment. The Ministry of Women & Child Development is the nodal agency for all matters pertaining to welfare, development and empowerment of women. The various schemes undertaken for economic empowerment are Swashakti, Swayamsidha, Support to Training and Employment Programme (STEP), Mission Purna Shakti and Swavlamban. Working women's hostels and creches provide support services. Swadhar ('a scheme for women in circumstances') and short stay homes provide protection and rehabilitation to women in circumstances. The Ministry also supports autonomous bodies like the National Commission, Central Social Welfare Board and Rashtriya Mahila Kosh which work for the welfare and development of women.

## CONCLUSION

As has been outlined in the chapter, gender is a factor in India's labour scenario, with major differences evident in men and women's participation in the labour market, opportunities for particular occupations, upward mobility and sustenance in paid employment. The guarantee of equality in rights and opportunities provided by the Constitution of India can be translated into reality only through concrete and consistent steps to ensure greater gender equality in the sphere of work and the larger public sphere. While many policy initiatives have been introduced and implemented so far, consistent efforts in ensuring equality of opportunity and workplace rights for men and women are essential for bringing about a more inclusive growth and development in the country.

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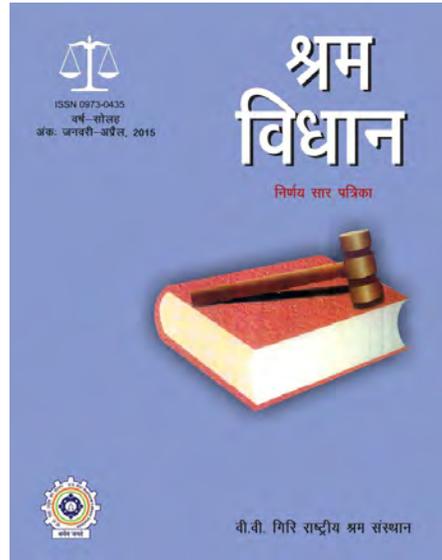
# श्रम विधान

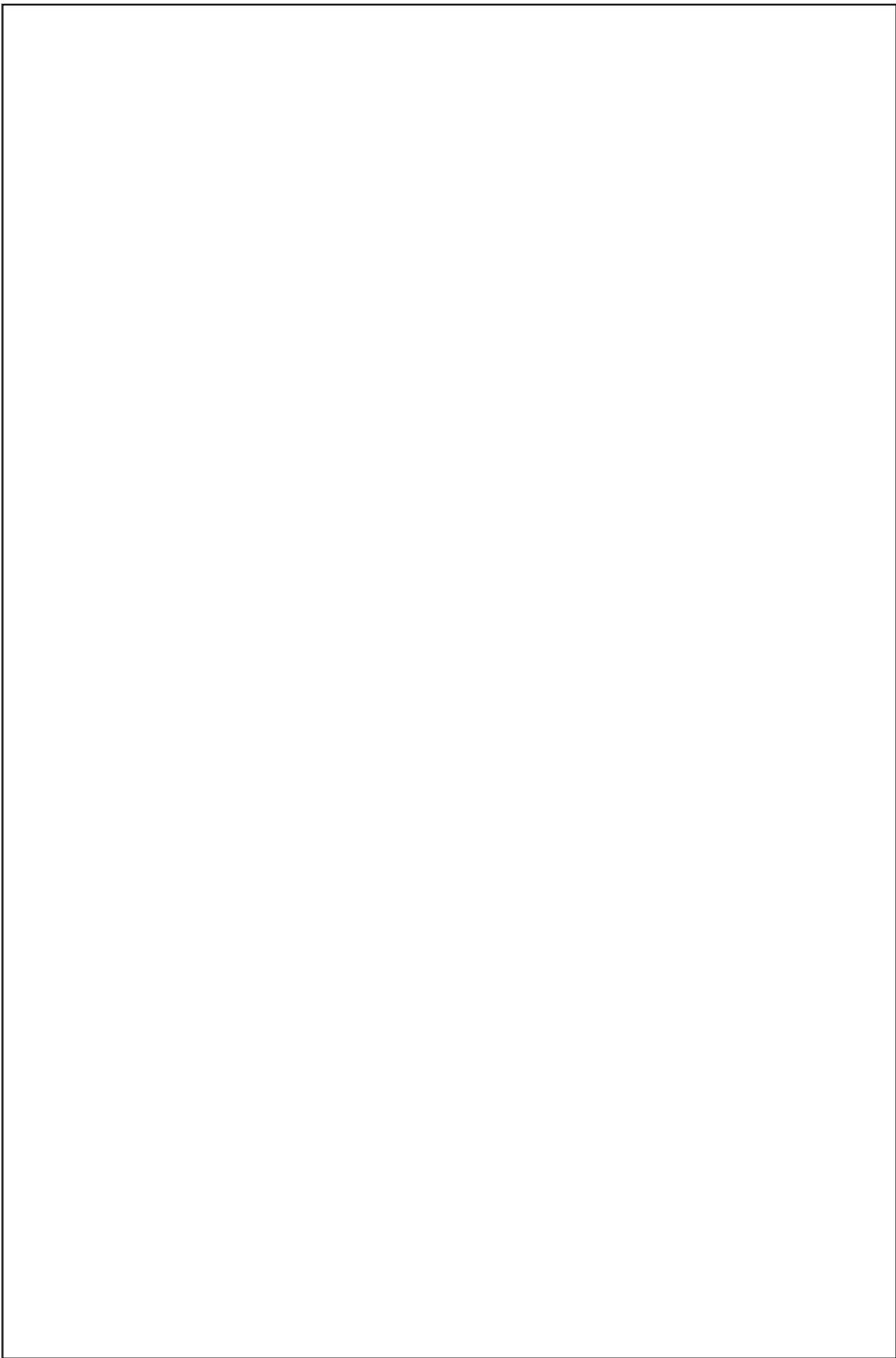
*Je fo/ku* द्वै-मासिक हिन्दी पत्रिका है। श्रम कानूनों और उनमें समय-समय पर होने वाले बदलावों की जानकारी को आधारिक स्तर (Grass Roots level) तक सरल और सुबोध भाषा में पहुंचाने के लिए इस पत्रिका का प्रकाशन किया जाता है। इस पत्रिका में संगठित और असंगठित दोनों क्षेत्रों के लिए अधिनियमित मौजूदा कानूनों की सुसंगत जानकारी, उनमें होने वाले संशोधनों, श्रम तथा इससे संबद्ध विषयों पर मौलिक एवं अनूदित लेख, भारत सरकार द्वारा समय-समय पर जारी अधिसूचनाएं, औद्योगिक श्रमिकों के लिए उपभोक्ता मूल्य सूचकांक के प्रकाशन के साथ-साथ श्रम से संबंधित मामलों पर उच्चतम न्यायालय तथा उच्च न्यायालयों द्वारा दिए गए फैसलों को सार के रूप में प्रकाशित किया जाता है।

चंदे की वार्षिक दर ₹ 200 है।

अधिक जानकारी के लिए सम्पर्क करें:

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- Undertaking research studies and training interventions of world class standards; and
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ISBN: 978-93-82902-32-4

