

Social Security/Welfare Benefits under Labour Legislations with Special reference to Unorganized Sector Female Agricultural Workers

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ABSTRACT:

Agriculture is the backbone of Indian economy. Women play a crucial role in agriculture activity like, main crop production, livestock production, horticulture, post-harvest operations and other allied activities. Agriculture sector employs 4/5th of all economically active women in the country but still they are socially and economically deprived.

The Constitution of India grants protection to women labour in its Preamble, Fundamental rights and Directive Principles of State Policy. Articles 14, 15, 15 (3), 16, 39 (a), (d), 42, 43 and 46 are of specific reference.

In order to provide an effective legal regime which fulfils the mandate of social security the government has enacted legislations for the protection of unorganized sector workers namely, The Minimum Wages Act, 1948, The Equal Remuneration Act, 1976, The Unorganized Workers Social Security Act, 2008. However, improper implementation of these legislations have left the agricultural female labour at the mercy of contractors and landlords.

Now the question is does the New Labour Codes will address the problems of agriculture female labour. The author in this article briefly examines the social security and welfare measures provided to the unorganised sector female labour under the present labour legislations and New Labour Codes.

Key Words: Agriculture, Female Labour, Constitution, Wages, Social Security.

I. Introduction:

Though agriculture is the backbone of Indian economy it is not recognized as industry thus agricultural labourers are working under harsh conditions and are subject to different set of rules and regulations and most surprisingly a good number of their working conditions are not governed by any statutory regulation leaving them at the mercy of contractors and landlords.¹

¹ R. M. Sethi., Women in Agriculture, Rawath Publications, New Delhi. 1991, P. 162

Women play a crucial role in agriculture activity like, main crop production, livestock production, horticulture, post-harvest operations and other allied activities like, management of dairy animals, starting from collection and cutting of fodder to feeding, cleaning of cattles and cattle shed, milking etc.

According to (UNDP) report,²women are involved in doing 67% work of world, agriculture sector employs 4/5th of all economically active women in the country still they are socially and economically deprived. They are receiving only 10% of the universal income and have 1% part in the global assets.

This discrimination also persists in their workplace in unorganized sector.in unorganised sector women don't get equal wages as that men, they are subject to exploitation and also working under exploitative conditions.

They are some legislations enacted by the parliament i.e., Unorganised Workers Social Security Act, 2008, Domestic Workers Welfare and Social Security Act,2010, which could address the issue but due to improper implementation women workers are faced to work and live in miserable conditions in unorganized sector. There is a need to provide a distinct and effective legal regime that notonly supports the mandates of welfare state but also fullfils the mandate of social security.

II. Reasons for joining the Agriculture: An Empirical approach

The following table clearly shows the reasons for joining the agriculture sector by woman:

Table 1: Reasons for joining as Agricultural labour by the Respondents

Number of Respondents selected for the study: 150

Sl.No	Reason for Agricultural Labour	Number of Respondents	Percentage %
1	To fullfil the basic family needs	81	54
2	Absence of male earning members	54	36
3	Low family income	87	58
4	Illiteracy	78	52

Source: Field Survey of Chikkamangluru District, by prof. K.A. Rajanna, Kuvempu University, Karnataka.

By analyzing the data provided in Table 1 we can draw an inference that majority of women join as agricultural labour to earn their livelihood and because of their illiteracy they cannot be engaged in other establishments.

² United Nations Development Programmer Report, 2020

III. Problems of Female Agricultural Labours:

Sl. No	Problems	No.of Respondents	Percentage %
1	Wage discrimination	42	28
2	Shortage of wages	93	62
3	Dual responsibility	66	44
4	Unpaid work or no hours of work	38	25
5	Job insecurity or seasonal unemployment	93	62
6	Male dominance	36	24

Table No.2 depicts the problems of the respondents after interpreting the data provided in can be presumed that on an average 60 to 70 percent of female agricultural labourers are the suffering from the above named problems. Though we have plethora of labour legislations but they failed to address the above issues of women workers because of improper implementation and because of the reason these labours fall under the category of unorganized sector workers.

IV. Constitutional Mandate:

The Constitution of India grants protection to women labour in its preamble, Fundamental Rights and Directive Principles of State Policy in part III and IV respectively. The Constitution of India not only grants equality to women but also empowers the State to adopt measures of positive discrimination in favour of women for neutralizing the cumulative socio economic and political disadvantages faced by them. Articles 14,³15,⁴15 (3)⁵, 16,⁶ 39 (a), (d)⁷,42,⁸ 43⁹ and 46¹⁰ are of specific reference.

V. Statutory Protection:

³Art 14 Equality before law.—The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

⁴ Art 15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

⁵ Art 15 (3) Nothing in this article shall prevent the State from making any special provision for women and children.

⁶ Art 16. Equality of opportunity in matters of public employment.—(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

⁷ Art 39. Certain principles of policy to be followed by the State.—The State shall, in particular, direct its policy towards securing— (a) that the citizens, men and women equally, have the right to an adequate means of livelihood; and (d) that there is equal pay for equal work for both men and women;

⁸ Art 42. Provision for just and humane conditions of work and maternity relief. The State shall make provision for securing just and humane conditions of work and for maternity relief.

⁹ Art 43. Living wage, etc., for workers.—The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or co-operative basis in rural areas.

¹⁰ Art 46. Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections.—The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

In order to provide an effective legal regime which fulfills the mandate of social security the government has enacted legislations for the protection of unorganized sector workers namely,

1. The Minimum wages Act, 1948

The Minimum Wages Act, 1948 is among the most important legislation for the benefit of the unorganized sector labour.

The Act provides for periodic revision of minimum rates of wages. It aims to prevent exploitation of workers in certain scheduled employments. The workers in this sector are vulnerable due to lack of bargaining power and machinery for regulation of their wages. This Act is important for agricultural women workers as they can hope for minimum wages in an exploitative environment.

2. The Equal Remuneration Act, 1976

The Act is a landmark legislation for women workers. It provides for equal remuneration for the same work or to work of a similar nature to both men and women. It seeks to prevent discrimination on grounds of sex in terms of payment for the work done.

3. The Unorganised Workers Social Security Act, 2008

In order to ensure welfare of workers in the unorganized sector the ministry of labour and employment has enacted a law in the year 2008 which came into force on 16-05-2009.

The Act under Section 2(m) defines unorganized worker to mean, home based worker, self employed worker or a wage worker in the unorganized sector and includes a worker in the organized sector who is not covered by any of the Act mentioned in Schedule-II of the Act.

The Act under Chapter II¹¹ provides certain social security benefits i.e., framing of schemes on matters relating to health, old age protection, maternity benefit, employment injury benefit, housing, skill upgradation of workers, provident fund, disability cover etc which are funded both central and State government.

The Act under Chapter III¹² provides for constitution of National Social Security Board to administer and recommend suitable schemes for Unorganised sector workers.

The provision is made to record keeping by District Administration under Section 8 of the Act. The Act under Section 9 provides for workers facilitation centers constituted by state Government to disseminate information on available social security schemes for the unorganized workers.

¹¹The Unorganised Workers Social Security Act, 2008

¹²Ibid.

Various schemes are implemented for the unorganized sector workers namely, Indira Gandhi National old age Pension Scheme, National Family Benefit Scheme, Janani Suraksha Yojana and so on.

VI. Criticisms:

- 1) The Equal Remuneration Act,1976- the scope of this Act does not cover self employed workers like, unpaid women workers in farming, households and the unorganized sectors in large numbers. Though the nature of work is same specially the agricultural women labour is getting three times low wages as that of men, in this era there is need to reform the law.
- 2) The Minimum Wages Act, 1948- This Act is primarily applicable to unorganized sector workers but there is no institutional machinery for the implementation of minimum wage legislation in the agricultural sector. The women agricultural labour work in highly exploitative conditions and are victims of exploitation by the landlords for so many reasons, there is no mechanism to provide the benefit of Prevention of Sexual Harassment Act, 2013 to female agricultural labour in the unorganized sector workers.
- 3) Unorganised Workers Social Security Act,2008 – under this legislation the government has implemented so many schemes namely, National Social Assistance Programme, National Family Benefit Scheme, Agricultural Workers’ Social Security Scheme etc., however these initiatives are generalized and no specific commitment has been undertaken in respect of women agricultural labourers.
 - The provisions of the Act provides for establishment of National and State social Security Boards but the participation of women is very low.
 - The Workers Facilitation Centre should be established at Panchayat level to disseminate information on social security schemes to illiterate women agricultural labour.
- 4) India has ratified a good number of ILO conventions which have a bearing on providing legal protection to agricultural workers in general and specifically women labour in unorganized sector namely,
 - a. Right of Association (Agriculture) Convention,1921
 - b. Minimum Wage Fixing Machinery Convention,1928
 - c. Equal Remuneration Convention,1951
 - d. Equality of Treatment (Social Security) Convention, 1962
 - e. Rural workers’ Organisation Convention, 1975.

Despite of international commitment to the extent,progress on the front of providing legal regime for agricultural workers in India has not been very significant.

VII. Does the Labour Codes will address the problems of agriculture female labour:

1. **Minimum Wages:** The Code on Wages,2019 says that the employer has to ensure minimum wages but who has to supervise that whether the employer is paying minimum wages to female agriculture labour – There must be some normative criteria as for as implementation of minimum wages are concerned.

- For agriculture sector minimum wages are fixed according to type of skills. E.g. harvesting, cropping etc, under the minimum wages Act,1948- But the question here that how do we ensure that the minimum rates of wages are paid – the type of mechanism for implementing minimum wages – this needs to be examined.

2. Social Security Benefits: The issue of unorganized sector workers in entirety has been dealt partly in the code¹³ under chapter 8& 9,rest of the provisions under chapter 3 to 7 exclusively deal with social security and social welfare measures to unorganized sector workers in the country.

There are certain issues of agriculture female labour which needs to be addressed-

- a. Job insecurity:** Since agriculture sector provides seasonal employment to the workers and because of the reason that the same employer will not provide continuous work in his field there is no security to their job tenure.
- b. Conditions of work:** Like organised sector we don't have fixed working hours to the agriculture labour, they have to work sometimes more than 8 hours.
- c. Occupational diseases, Medical benefit:** No doubt the Code under chapter 9 empowers the central and state government to frame the schemes for employment injury benefit and disability cover even to unorganized sector workers but how these schemes are to be implemented; the Code is silent on this aspect.
- d. Maternity Benefit:** The Code under chapter 9 empowers the central government to frame schemes for maternity leave to unorganized sector worker but what is the eligibility criteria for entitlement of maternity benefit, from which employer/landlord she is entitled for maternity benefit—what type of criteria they have to fix for entitlement this issue need to be examined.
- e. Menopause Benefit:** During the period of menopause women face many problems. They became anemic, they go into depression, they will lose both physical and mental health.- so in this regard women need to be supported emotionally, financially and even by providing flexible working conditions. This aspect needs to be examined.
- f. Safety at workplace:** Agriculture women are victims of harassment by their landlords at workplace. Do their any mechanism to provide the benefit of Sexual Harassment of Women at Workplace (Prevention, Prohibition &Redressal)Act, 2013 to female agriculture labour – this issue needs to be examined.
- g. Child Care:** Agriculture is open employment system women workers are in need of some welfare aspects. E.g.: If a women labour has small children she should be provided with some shelter home where she can keep her child in order to keep away from harmful insects in agriculture field.
- h. Basic amenities:** There shall be some provision with respect to basic amenities like, urinals, latrines etc., to agriculture female labour.
- i. Facilitation Centers:** The Code provides for facilitation centers at district level in order to disseminate information on available social security schemes for unorganized sector workers but how far the women agriculture labour who is leaving is too remote villages will come to district places and avail the benefit.
There shall be some mechanism even at villages (panchayat level) to disseminate information and educate the female labour on social security and welfare schemes.
- j. Right to organize & Dispute Resolution Councils:** In order to enhance the collective bargaining power of female agriculture labour they need to be provided with right to organize and they should be provided with some councils or committees for redressing their disputes.

¹³Social Security Code,2020

These are some of the issues which needs discussions, elaborations and examination so that agriculture female labour will be provided with social security and welfare benefits.

VIII. Conclusion:

Women agricultural labours are recognized as unorganized sector. Rural women will give major contribution to the agriculture and allied fields. The women labour situation in India is marked by the prevalence of widespread illiteracy, lack of training in basic skills, ineffective enforcement of labour laws, non-implementation of industrial policies, inadequate appraisal of job performances and persistence of traditional attitudes. These are various reasons that perpetuate the vicious circle of under development, low productivity and poor conditions of health and welfare, which have serious consequences for society in general, and women in particular.

Many factors have been identified as affecting women's employment such as segmentation in labour market, adverse consequences of technological growth, lack of bargaining powers in women workers and conceptual vagueness at the policy level. The backdrop of globalization is redefining labour standards and labour relations. Women have to be provided with more opportunities of economic participation, training and skill inculcation. This is essential to cope with the consequences of what has come to be described as, "Feminization and Flexibilization" of labour.

IX. Suggestions:

The following suggestions can be made for the improvement of socio economic position of the women agricultural labour.

1. Better and proper implementation of labour laws and legislative measures.
2. Enhancement of Security Blanket- the bulk of labour legislations excludes the agricultural labour with respect to providing social security and welfare measures which gives a free hand to employers/ landlords to exploit the Unorganised sector workers. So in order to break this chain there is need to revitalize the law to include unorganized sector workers within its scope.
3. The Government should either enact a law or enhance the scope of earlier legislations which recognizes a set of minimum entitlement of workers comprising regulation of hours of work, right to organize, non discrimination on payment of wages and conditions of work, safety at workplace and absence of sexual harassment, dispute resolution councils for unorganized sector workers.
4. With regard to Maternity Benefit Act, the shramshakti report 1988 has emphasized that the costs of maternity benefits should be met through a tax on the whole industry irrespective of whether or not they employ women. The Maternity Benefit Act, 1961 should be extended to all industries and the provision of maternity relief should be ensured by creation of a Central Fund by levying contributions from employers. The Act should cover agricultural labourers also. An anti retrenchment clause should be included in the Act. Women workers should entitled to crèche facility and menopause benefit.

5. The benefits provided under Employees State Insurance Act, 1948 should be extended to unorganised sector workers in general and specifically to female agricultural labour.
6. Women must also be included in land and water management, panipanchayats, preservation of soil fertility and nutrition management, sustainable use of soil, water, livestock and fishery resources and in creating village level community seed banks and so on.
7. Women's access to the various agriculture schemes being implemented by government will be ensured. A quota for women will be incorporated by modifying the guidelines of agriculture related schemes like, Rashriya krishi vikasyojana (RKVY). Further, involvement of women can be ensured by providing financial and infrastructural support to SHGs for seed production, storage, preservation and distribution.
8. Access to agricultural technology for women will improve by designing agricultural technology that is women friendly.
9. Endowing women with land is an important instrument for empowering them economically and strengthening their ability to challenge social and political gender inequities.

