

8

UNORGANISED LABOUR

8.1 The term 'unorganised labour' has been defined as those workers who have not been able to organise themselves in pursuit of their common interests due to certain constraints like casual nature of employment, ignorance and illiteracy, small and scattered size of establishments, etc.

8.2 As per the survey carried out by the National Sample Survey Organisation in the year 1999-2000, the total employment in both organized and unorganised sector in the country was of the order of 39.7 crore. Out of this, about 2.8 crore were in the organised sector and the balance 36.9 crore in the unorganised sector. Out of 36.9 crore workers in the unorganised sector 23.7 crore workers were employed in agriculture sector, 1.7 crore in construction, 4.1 in manufacturing activities and 3.7 crore each in trade and transport, communication & services.

CATEGORIES OF WORKERS

8.3 The unorganised Labour can be categorised broadly under the following categories: —

a) Occupation: Small and marginal farmers, landless agricultural labourers, share croppers, fishermen, those engaged in animal husbandry, in beedi rolling, labelling and packing, building and construction, collection of raw hides and skins, handlooms weaving in rural areas, brick kilns and stone quarries, saw mills, oil mills etc.

b) Nature of Employment: Attached agricultural labourers, bonded labourers migrant workers, contract and casual labourers etc.

c) Specially distressed categories: Toddy tappers, scavengers, carriers of head loads, drivers of animal driven vehicles, loaders, unloaders etc

d) Service categories: Midwives, domestic workers, barbers, vegetable and fruit vendors, newspaper vendors etc.

SPECIAL CHARACTERISTICS

8.4 The unorganised sector with its overwhelming number, range and complexity of problems has not been amenable to any statistical accuracy and precision in the same sense as the organised sector.

- Existing surveys conducted in few sectors of employment do not throw light on all aspects and not much helpful in building adequate database.
- Suffers from cycles of excessive seasonality of employment and lack of stable and durable avenues of employment.
- Low legislative protection due to scattered and dispersed nature of employment.
- No formal employer-employee relationship.
- Primitive production technologies and feudal production relations not conducive to encourage the workmen to imbibe and assimilate higher technologies and better production relations.
- Large-scale ignorance and illiteracy and limited exposure to the outside world.

VARIOUS ACTS APPLICABLE TO WORKERS IN THE UNORGANISED SECTOR

8.5 The following Acts are applicable to the workers in the unorganised sector also: —

- (i) The Payment of Wages Act, 1936;
- (ii) The Employees State Insurance Act, 1948;

- (iii) The Plantation Labour Act, 1951;
- (iv) The Maternity Benefit Act, 1961;
- (v) The Payment of Gratuity Act, 1972; and
- (vi) The Personal Injuries (Compensation Insurance) Act, 1963.

8.6 The Ministry of Labour has also set up welfare funds in respect of various categories and sub-categories of workers in the unorganised sector such as Mica Mines, Iron Ore, Manganese Ore and Chrome Ore Mines, Beedi, Limestone and Dolomite Mines and Cine Workers.

AGRICULTURAL WORKERS

8.7 Agricultural workers constitute by far the largest segment of workers in the unorganised sector and their number according to 1991 Census was 7.46 crore. In addition, a significant number of 11.07 crore cultivators (large, medium and small), about 50% belong to the category of small and marginal farmers also working on the land of others because of small and uneconomical holdings and low yield also qualify for agricultural labourers. About 60 lakh workers are engaged in fishery, forestry, orchardry and allied activities,

PROBLEMS FACED BY AGRICULTURAL WORKERS

8.8 Broadly, the problems of agricultural workers can be classified into two groups viz., (i) social and (ii) economic. Social problems emanate from the low status of agricultural workers in the rural hierarchy and the economic problems are due to inadequacy of employment opportunities, poor security of tenure, low income and inadequate diversification of economic activity in rural areas.

- They are dispersed, unorganised and generally have poor bargaining power.
- Due to seasonal work they often have to migrate for alternative avenues of employment in other areas like construction etc. during off-season.
- Circumstances force many of them to borrow, from time to time, from private sources either for consumption purposes (even to maintain a subsistence level) or to meet social obligations (marriages, etc.) and some of them end up as bonded labourers.

SOCIAL SECURITY SCHEME FOR AGRICULTURAL WORKERS

8.9 Several legislative and administrative measures have been taken to protect the interests of the working class particularly uplift of the conditions of agricultural workers. In addition to the Acts with enabling provision to extend them to agricultural workers, a social security scheme, namely, **Krishi Shramik Samajik Suraksha Yojana- 2001** has been launched by the Ministry of Labour through the Life Insurance Corporation of India, w.e.f. 1st July, 2001. The highlights of the scheme are as under:

- The scheme is implemented in 50 selected districts in the country.
- It will cover 20,000 agricultural workers from each district over a span of three years. During 2001-02, it is expected to cover 5000 workers from each selected district.
- Agricultural workers in the age group of 18-50 years are eligible under the scheme.
- The workers will contribute Re.1/- per day or Rs.365/- per annum and the Govt. of India will pay Rs.2/- per day or Rs.730/- per beneficiary, per year from the Social Security Fund and adequate provisions will be made in the subsequent two years.

8.10 The benefits under the scheme available to he agricultural workers are:

On death before age 60

- Lump sum payment of Rs.20, 000 on natural death
- Lump sum payment of Rs.50, 000 in case of death due to accident
- Return of contribution plus interest or pension for family

On disability due to accident before age 60

- Lump sum payment of Rs.50, 000 in case of permanent total disability or Rs.25, 000 in case of permanent partial disability due to accident.

On surviving upto age 60

- Pension per month, which ranges from Rs 100 to Rs 1900 and a lump sum payment to the family on death that ranges from Rs 13000 to Rs 2,50,000, depending on the age of entry to the scheme.

SOME OTHER SCHEMES FOR THE WELFARE OF AGRICULTURAL WORKERS

- Janshree Bima Yojana for people below and marginally above the poverty line.
- National Social Assistance Programme (NSAP) comprising of National Old Age Pension Scheme (NOAPS), National Family Benefit Scheme (NFBS) and National Maternity Benefit Scheme (NMBS),
- Sampooran Gramin Rozgar Yojana (SGRY),
- Employment Assurance Scheme (EAS),
- Swaranjayanti Gram Swarojgar Yojana (SGSY),
- Jawahar Gram Samridhi Yojana (JGSY),
- Pradhan Mantri Gram Sadak Yojana (PMGSY);
- Rural Housing and Water Supply Programme,
- Drought Prone Areas, Desert Area Development Programmes, etc.

HOME BASED WORKERS

8.11 A major category of unorganised workers is Home Based Workers. Home Based Workers are those who are engaged in the production of goods or services for an employer or contractor in an arrangement whereby the work is carried out at the place of the workers' own choice, often the worker's own home.

8.12 The issues and problems of home based workers are very complex because of the absence of any direct master-servant or employer-employee relationship between the home worker and the person or organisation for whom he works. The relationship being ambiguous and indefinite, the home worker is subjected to exploitation in various forms.

8.13 In India, there is no authentic data on home based workers. Official data sources such as Census of India, do not recognise these workers as an independent category but have included them in the broad category of those working in house-hold Industries. As such, home based workers are not visible in national statistics. However, it has been estimated that over 3 crore workers in the country are home based workers. Among these, 45 lakh workers are employed in beedi rolling, 65 lakh in handloom weaving, 48 lakh

rural artisans and craft persons. The other major occupations of the Home based workers are agarbatti makers, zari workers, papad makers, cobblers, lady tailors, carpenters, etc.

8.14 The Government has enacted the Beedi and Cigar Workers (Conditions of Employment) Act, 1966 and Beedi Workers Welfare Fund Act, 1976. Under these legislations the conditions of service of these workers are regulated and a number of schemes for their welfare are in place.

8.15 Further, the Ministry of Textiles through the office of Development Commissioner for Handlooms and Handicrafts implements schemes and programmes covering various aspects such as skill upgradation, insurance coverage, housing, health, etc.

8.16 With a view to providing legislative protection, welfare measures and social security to a large number of home based workers who have been hitherto neglected, the possibility of formulating a National Policy on Home Based Workers is being explored in consultation with other concerned Ministries/ Departments, State governments, etc.

BUILDING & OTHER CONSTRUCTION WORKERS

8.17 Construction workers constitute one of the largest categories of workers in the unorganised sector. According to the Sample survey conducted by NSSO in 1999-2000, about 1.76 crore workers are employed in the construction activities.

8.18 "Building or other construction work" means the construction, alteration, repairs, maintenance or demolition, of or, in relation to, buildings, streets, roads, railways, tramways, airfields, irrigation, drainage, embankment and navigation works, flood control works (including storm water drainage works), generation, transmission and distribution of power, water works (including channels for distribution of water), oil and gas installations, electric lines, wireless, radio, television, telephone, telegraph and overseas communications, dams, canals, reservoirs, watercourses, tunnels, bridges, viaducts, aqueducts, pipelines, towers, cooling towers, transmission towers and such other work as may be specified in this behalf by the appropriate Government, by notification but does not include any building or other construction work to which the provisions of the Factories Act, 1948 or the Mines Act, 1952 applies.

8.19 "Building worker" means a person who is employed to do any skilled, semi-skilled or unskilled, manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be expressed or implied, in connection with any building or other construction work.

8.20 Construction jobs are highly labour-intensive and also highly mechanised. The entire activity is mobile, seasonal, intermittent and mostly inter-connected. The completion period of projects ranges widely and calls for engagement of labour from various trades, skills and professions. The duration of employment, quantum of work (work pressure) and arduousness differ from one extreme to another. Construction labour is generally unskilled, and therefore mostly attracts migrant agricultural labour during off-season. The workers are usually socially backward and illiterate with low bargaining power.

8.21 One of the major features of construction industry is that it is prone to risks of accidents. Due to non-detection and non-reporting, accurate statistics of the number of such accidents is difficult to obtain. Factors contributing to this include:

- large proportion of small firms and of self-employed workers;
- variety and comparatively short-life of construction sites ;
- high turnover of workers;
- large number of seasonal and migrant workers many of whom are unfamiliar with construction processes;
- exposure to the vagaries of the weather;
- many different trades and occupations.

8.22 The Government of India has been greatly concerned about the welfare of these workers and, therefore, provisions of various Acts have been extended to them. Still a need was felt for a comprehensive Central legislation for this category of workers. Eventually the following two enactments have come on the Statute Book w.e.f. 20.8.96:

- (1) The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 ;
- (2) The Building and Other Construction Workers' Welfare Cess Act, 1996; and

Further, the Building and Other Construction Workers (RECS) Central Rules, 1998 have been notified on November 19, 1998.

8.23 The legislation provides for regulating the employment and conditions of service, safety and health and welfare measures for the construction workers by setting up a Welfare Fund at the State level to be financed by contribution made by beneficiaries, levy of cess on all construction works at rates between 1 to 2 % of the construction cost incurred by an employer and non-mandatory grants/loans by the State/Central Governments. The Fund is to be used for giving financial assistance to the families of beneficiaries in case of accident, old age pension, housing loans, payment of insurance premia, children's education, medical and maternity benefits, etc. The Act also provides for certain other welfare amenities like temporary accommodation at or near work sites, creches, canteen, first aid, washing facilities, etc.

SALIENT FEATURES OF THE ACT

- (i) The Act is applicable to every establishment which employs or had employed on any day of the preceding 12 months, 10 or more workers in any building or other construction work.
- (ii) In the definition of establishment in the Act, individuals, who employ such workers in relation to their own residence the total cost of which is not more than Rs. 10 lakhs, are exempted.
- (iii) Constitution of Central and State Advisory Committee to advise the appropriate Governments on matters arising out of administration of the Law
- (iv) Registration of establishments employing construction workers and appointment of registering officers.
- (v) Constitution of Welfare Boards by the State Governments and registration of beneficiaries under the Fund and provision for their identity cards etc.
- (vi) Provision for temporary living accommodation to all building workers within or near the work-site.
- (vii) Fixing hours of normal working day, weekly paid rest day, wages for overtime, provision for basic welfare amenities like creches, first-aid, canteens etc. for the building workers.
- (viii) Making adequate provision for safety and health for construction workers.

- (ix) Provision for appointment of inspecting staff.

8.24 The State governments are in the process of constituting Expert Committees to frame the Rules, set up Welfare Boards and Funds to implement the Act in letter and spirit. The Government is monitoring the implementation of the provisions of the Act. So far only Kerala has constituted the Board. It is expected that provisions of the Act once put in place will improve the living conditions of workers engaged in the construction activity.

MIGRANT WORKERS

8.25 Migration is defined as a process of movement of an individual from the place of birth/origin or normal residence to a new place of residence. Labour migration is an important factor affecting the course of socio-economic development in India. Accelerated movement of people mainly from the rural and backward areas in search of employment has been one of the most important feature of the labour market scenario in India during the post independence period. It has raised a number of concerns such as economic, social and political marginalisation of migrant workers, especially of those unskilled people moving from relatively deprived and depressed areas in search of gainful employment and living. Migration is widely perceived as both induced by the extent vulnerability of social groups and also results in increased vulnerability at the point of destination.

PATTERNS, FORMS AND CHARACTERISTICS OF MIGRATION

8.26 Four broad patterns of internal migration are : (i) Rural-to-rural migration; (ii) Rural-to-urban migration, (iii) Urban-to-urban migration and (iv) Urban-to-rural migration. Within these different streams rural-to-rural and rural-to-urban migration have been the predominant patterns of migration.

8.27 The forms of labour migration can broadly be schematized as (i) Permanent, (ii) Circular or seasonal and (iii) Commuting. Within these different forms, seasonal/circular and commuting migration of predominant. The nature of contemporary labour migration can be examined at various levels depending on the degree and extent of vulnerability to which the migrant worker is exposed such as (i) Migration for survival, (ii) Migration for

subsistence, (iii) Sponsored migration and (iv) Voluntary migration.

MAGNITUDE

8.28 Migration has been a regular phenomenon in recent times involving people within a given geographical area or beyond the boundaries of a state or nation. As per data available there were 23.4 million inter-state out- migrants. Of this, migration for employment accounted for 6.2 million. About 5 lakh migrants were reported seasonal migrants migrating for less than one year. Two states, Uttar Pradesh and Bihar alone account for 41.4% of total out migration. This includes intra-district, inter-district and inter-state migrants.

MAJOR REASONS FOR MIGRATION

- Better employment opportunities and higher wages in economically developed regions attract labour, non-availability of employment opportunities and consequent hardship in the under developed regions act as push factors in the migration process.
- The economic necessity, inter-regional disparity in economic growth due to uneven development and disparity between different socio-economic classes has been identified by the National Commission on Rural Labour as the most important reason for causing migration.
- Freedom of movement in any part of the territory of India and freedom to pursue any avocation of one's choice is a fundamental right guaranteed by Article 19 of the Constitution.

WAGES AND EARNINGS OF MIGRANT LABOUR

- Wages for migrant labourers vary from sector to sector and region to region. Except in a few sectors and regions at a particular period in a year, migrant labourers by and large do not get minimum wages. In order to avoid payment of minimum wages and to get extra work in short time, payment by piece-rates and contractualisation of work is gaining ground.
- The condition of women migrant labourers in some parts may be unsatisfactory as the contractors decide the wage paid to them.

- The provisions under the Equal Remuneration Act makes it obligatory for the contractor to pay equal wages to male and female labourers, more often than not the women labourers are paid lesser wages compared to male workers.
- Despite hardships and exploitation, the income of migrant labour may be generally higher than what they would have been able to earn without migration. As the proportion of migrant labour is quite high for certain backward areas.

MAJOR PROBLEMS FACED BY MIGRANT LABOURERS

- The majority of inter-district and inter-state migrants are illiterate and belong to the poorest sections of the society.
- The intermediaries often exploit their helplessness by giving certain advance payments and forced them into a kind of bondage.
- Most of the migrant labourers do not have a fixed place of work and keep shifting from one place to another.
- They lack bargaining power, forced to accept in-conducive working conditions and work for lesser wages.
- In the event of disputes, they have little strength to withstand and to wait for the dispute to be resolved by the formal resolution machinery.

INTER-STATE MIGRANT WORKMEN ACT, 1979

- Although number of labour legislations as mentioned earlier are applicable to all workers irrespective of their status as migrant or local workers subject to coverage of establishment in which they are employed. These laws have not been adequate to protect the interests of these workers. Therefore, Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (Act No. XXX of 1979) was enacted. The rules under this Act came into force from 2nd October, 1980.

SALIENT FEATURES OF THE ACT

- The Act is intended to regulate the employment of inter-state migrant workmen and to provide for their conditions of service and for matters connected thereto.

- It applies to every establishment in which five or more inter-state migrant workmen are employed or were employed on any day of the preceding twelve months and to every contractor who employs or who employed five or more inter-state migrant workmen (whether or not in addition to other workmen) on any day of the preceding twelve months.

The Act, inter-alia, provides for the following :

- Registration of principal employers/contractors and licensing of all contractors employing five or more migrant workmen;
- Issue of passbook to every inter-state migrant workman with full details;
- Payment of equal wages for performing same or similar kind of work in an establishment alongwith local labourers which should not be less than the minimum wages fixed under the Minimum Wages Act;
- Payment of displacement allowance equivalent to 50 per cent of monthly wages or Rs.75/- whichever is higher;
- Payment of journey allowance including payment of wages during the period of journey;
- Provision of suitable residential accommodation, medical facilities and protective clothing, payment of wages, equal pay for equal work irrespective of sex; and
- Submission of report to the specified authorities of both the States and also relatives of the migrant workmen in case of a fatal accident or serious bodily injuries to the workmen.

ENFORCEMENT

- The responsibility for enforcement of the provisions of the Act in establishments where the Central Govt. is the appropriate govt. lies with the office of the Chief Labour Commissioner (Central) and the responsibility for the establishments located under the State sphere lies with the respective State Govts. in which they are working and from where they have been recruited.

STUDY ON MIGRANT WORKERS IN THE FISH PROCESSING INDUSTRY

8.29 The number of workers in the fish processing industry is about 1.5 lakh. Of this,

the number directly engaged in fish processing constitutes about 1.0 lakh. Most of these workers, including graders and packers, are migrant workers from Kerala.

8.30 In pursuance to an assurance given in Rajya Sabha by the Prime Minister in reply to a question on 9.12.1999 regarding working and living conditions of workers in fish processing industry majority of whom are migrant workers, Inter-Ministerial/Joint Study Teams was constituted to visit various locations/States, meet the workers and submit a report. The Team had submitted its report and highlighted various issues concerning the migrant workers employed in the fish processing industry. The recommendations of the team includes promotion of co-operativisation, setting up of a centralized recruitment agency and enforcement of Inter-State Migrant Workmen Act, setting up of welfare fund and provide other facilities within the workplace premises such as banking facility, etc. The recommendations are being examined in consultation with State Governments and other concerned to initiate appropriate measures for their welfare.

IMPORTANT COURT JUDGEMENT ON MIGRANT WORKERS

8.31 The Supreme Court in their Judgment delivered on 16.7.90 in a Writ Petition filed by Dr. Damodar Panda and the State of Orissa and others directed "that every State/Union Territory in India shall be obliged to permit officers of the originating State of migrant labour for holding proper inquiries within the limits of the recipient State for enforcement of the Act and no recipient State shall place any embargo or hindrance in such process." The directions of the Supreme Court in the above Judgement were conveyed to the all State Governments and Union Territories on 1.10.1990. There should be no difficulty in appointing Inspectors by the originating State under Section 20(3) of the Act without any hindrance or objection, by the recipient State for carrying out inspection in the State where the migrant workman is employed.

8.32 The problem of migration is sought to be checked through a multi dimensional course of action through rural development, provision of improved infrastructural facilities, equitable dispersal of resource to remove regional disparities, employment generation, land reforms, increased literacy, financial

assistance etc. in this direction Government implements various schemes and programme such as Sampooran Gramin Rozgar Yojana (SGRY), Swarn Jayanti Gram Swarajgar Yojna (SGSY), Employment Assurance Scheme (EAS) etc.

OTHER CATEGORIES OF WORKERS IN THE UNORGANISED SECTOR

8.33 Besides agricultural workers and construction workers, the workforce in the unorganised sector can be divided into number of categories such as workers engaged in Tendu leaf collection, beedi workers, salt workers, toddy tappers, carpenters, forest workers, handloom weavers, crafts persons, cobblers, etc.

INITIATIVES BY THE STATES FOR THE WELFARE OF UNORGANISED WORKERS

8.34 In addition to the Central Govt., a number of State governments have also taken initiatives to cater to the welfare needs of the workers in the unorganised sector. The efforts made by some of the State governments are as under :

- The Government of Kerala set up Welfare Fund for different categories of occupational groups.
- Assam Plantation Employees Welfare Fund Act, 1959 enacted by the Govt. of Assam.
- Social Security Authority is being set up by the Government of Karnataka for different occupational groups.
- State Assisted Scheme of Provident Funds for Unorganised Workers (SASPFUW) launched by Govt. of West Bengal recently.
- Tamil Nadu Social Security and Welfare Scheme 2001 covering manual workers such as auto-rickshaws, taxi drivers, washer-man, tailoring workers, etc.

PUBLIC INITIATIVES

8.35 Several public institutions and agencies are also providing various kinds of Welfare and Social Security Benefits to selected groups of workers in the unorganised sector such as, Self employed Women's Association (SEWA), Mathadi Workers Boards in Maharashtra, etc.