

DISPARITY IN WAGES: AN OBJECTIVE STUDY ON THE CASUAL LABOURERS IN THE UNORGANIZED SECTOR

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ABSTRACT

Evidently, the unorganized sector is failing to thrive like the organized sector. There are several issues arising, pertaining to major economic damage to the country. It is essential to highlight the problems of these sectors, which are subsequently leading to the decline in the economy and furthermore, hampering the growth of the country. The aim of this paper is to provide a comprehensive analysis on the sector which comprises of a large chunk of the economy in India, the unorganized sector. This sector is largely overlooked upon and many of the fundamental issues of this sector go unaddressed, especially since the past two decades.

The paper will explore various aspects of the problem present in the unorganized sector, such as identifying the initiation of the disparity in pay and its contributing factors along with a special emphasis on the gender pay gap, which has been a constant factor, since the inception of the industry itself. Moreover, we shall also elucidate on the existing laws and its fallacies that address the issue of gender pay gap, especially in India. Towards the end, we suggest the implementation of certain solutions, such as the role of Universal Basic Income or the elimination of gender norms to lessen the disparity in the gender wage gap.

Keywords; Unorganized sector, casual labourers, women workers, gender pay gap, Social Security Act, unemployment, exploitation, NSS data, Indian economy

INTRODUCTION

Even though the definition of these sectors is quite unclear and imprecise, the organized sector could be prima facie defined as the sector where the terms of employment are explicit and steady. The unorganized sector could be labelled as the one where the employment terms are variable, highly flexible and irregular. The unorganized sector is where the chief problem arises. The unorganized sector in India continues to be the majority over the organized sector in terms of percentage of workforce while on the other hand, the latter enjoys control over many key resources and socio economic – power.

The unorganized sector continues to be ignored especially in areas of academic discourse and in terms of public policy support since the past two centuries now. In the present paper here, we draw upon data primarily from NSS which will look on the male to female disparity in the unorganized sector and then compare that to the organized sector. In addition to this, we shall also attempt to show how the gender wage gap creates a further burden on the GDP.

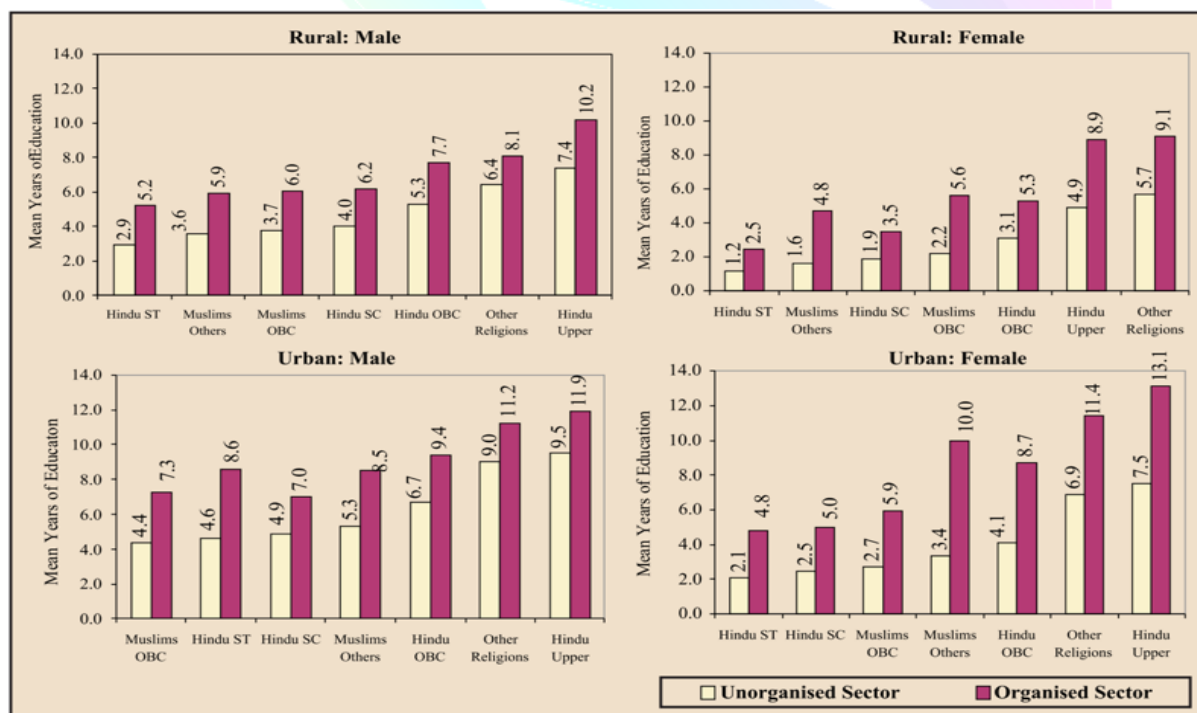
Over 90% of the total employment of the country is based on this unstable sector. In India, according to the data by the National Commission for Women, 94% of the total female workforce are found to be working in the unorganized sector.ⁱ Casual labourers working for a temporary period avail lesser benefits than the permanent ones. They earn less and are exploited more. It is highly alarming to note that the women and children in the unorganized sector are paid way less than a casual male labourer, essentially because of the gender inequality prevalent in the patriarchal society, resulting in lower revenues and prolonged periods of indebtedness.

CURRENT LABOUR MARKET SCENARIO

While labour market discrimination often establishes itself in the type of manual labour job and lower pay, the discrimination that takes place beyond this market establishes itself in the form of lower work participation rate. This situation will indeed become worse when disabling factors such as gender disadvantage along with other factors such as low-quality education, low social class and rural setting come into being. This intersectionality digs a further deeper hole for the already disadvantaged unorganized market labour.

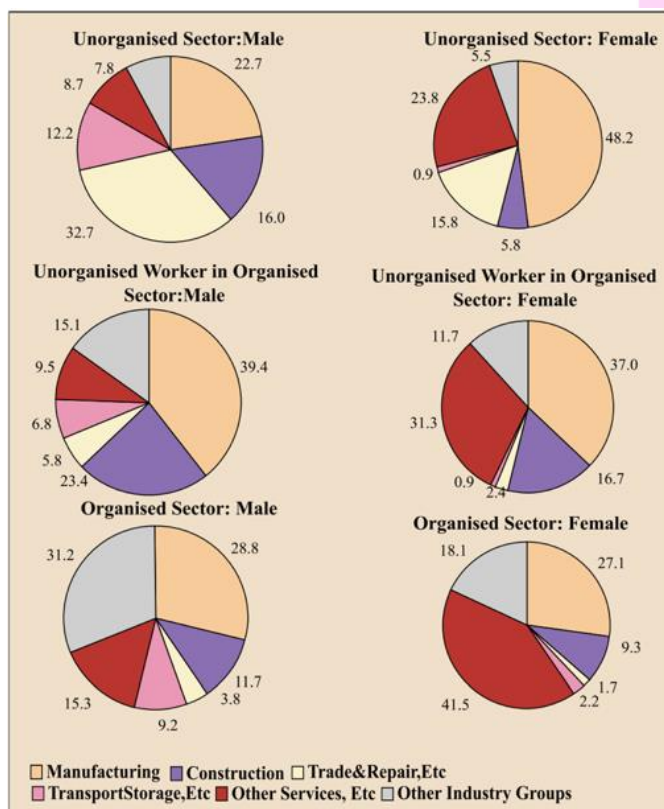
People working in the informal jobs sector, commonly, do not enjoy any kind of employment, work or social security. This essentially means that since there is no formal agreement, there is no protection against the frivolous and erratic dismissal of an employee. Health risks, insurances covering accidents or hazardous incidents at the location of the employment are also often ignored. Moreover, there seems to be no scheme that caters towards allocation of adequate funds or retirement pensions of these employees and therefore any one or more of these attributes can be used to classify as informal employment. Even if the Central Government acts are available for their protection, the ground level implementation and outreach has always been found to be lacking.ⁱⁱ

The very limited access to the basic essentials, including physical and human capital, act as one of the major hurdles to better access to jobs and hinder the growth of self-employed activities. We have focused on the levels of education that is mainly prevalent in rural and urban areas accompanied with levels of land owned by the non-agricultural workers present in the rural area. We have observed vulnerability in terms of access to jobs that are available in the organized sector. Another difference that has been observed is that there are multiple differences that exist within the unorganized sector, in terms of the state of work conditions that is available to the different kinds of workers; casual wage workers, regular workers and even self-employed workers.



Proportion of Non-agriculture Workers by Employment Status, Sector and Gender among Socio-Religious Groups (Percentage) 2004-2005ⁱⁱⁱ

Mean years of schooling among the socio-religious groups rose for Hindu ST, SC, OBC upper castes, with the Muslims being closer to the Hindu SC.^{iv} Absolute number of mean years of schooling was higher for all socio-religious groups among the organized sector workers compared to those in the unorganized sector.^v



Distribution of Non-agricultural Workers across Industrial Categories by Sex (Percentage) 2004- 2005^{vi}

About 71.6 per cent of all non-agricultural workers are in the unorganized sector. Among the industrial categories, more than 95 per cent of the workers in trade and employment by private households are in the unorganized sector.^{vii} More than three-fourth of the workers in other services such as hotels, restaurants, transport storage and construction are in the unorganized sector as well.^{viii}

Apart from agriculture, manufacturing is one of the most important segments in both the organized and the unorganized sectors of the economy. Women workers in the unorganized sector are predominantly concentrated in manufacturing which is about 48 per cent.^{ix} In the

organized sector, women are largely engaged in other services (41 per cent), while men are diversified into other industry groups.^x

The analysis of the data available at the national level clearly shows that considerable proportion of unorganized daily wage workers present in not only the agricultural but other sectors too will face the lack of any meaningful education at all levels. Education is quite crucial in determining the availability of reasonable wages and good quality employment. Only those fragments of the workforce that have access to quality education have consequently better access and possibly more remunerative jobs.

The reality is that the average years of education received by the workers in the unorganized sector (6.6 years) is about 3.5 years less than that received by workers in the organized sector (10.1 years)^{xi}. It is best to award pay on grounds of skill. However, this can only be done, if there is a foundational change brought about in the educational sector. Education needs to be imparted to all, without any form of discrimination based on various subjects that help form an identity, in the society. If we approach with this kind of pedagogy, we are also increasing the overall literacy rate of the country. It is crucial for the Government to take the essential steps to introduce more lucrative jobs and introduce policies that offer equal income to all workers. This will help the unorganized sector tremendously, where the outcome of the work is highly precarious.

Furthermore, women across the board have received fewer years of schooling as compared to men in all areas of the workforce. Further, the difference that is present between the organized and unorganized women workers was even more, at about 4.4 years. Vulnerability indeed leads to lower levels of education and lack of access to other basic assets. Thus, the person is confined to the manual labour work and they are denied access to the “good jobs” which come with benefits in the organized sector. While educated workers may or may not get employment, they do get better quality jobs at the end of the day, as compared to their counterparts, who lack quality education during the initial stages of their life.

Another dimension of vulnerability that comes into the picture is through the socio-religious groups from which the workers come from. While the workers belonging to the SC and ST populations are protected to some extent, by affirmative action, the Muslim population has been intensely concentrated in the self-employed and unorganized sector to meet their daily basic needs and earn their livelihoods. While on the other hand, Hindus other than SCs/STs

and OBCs have been found to be faring the best, due to more levels of education available and the amount of land in possession, thus, they are able to access better jobs as well as have more productive self-employed activities particularly in urban areas. Indeed, there could exist a certain variation across the country but the overall state of India shows a mutually strengthening mechanism in terms of assets, education and social status.

Furthermore, a report by Niti Ayog show that nearly 23.7 per cent women are in the workforce which is a decrease from the 26.7 per cent reported in 2015-16.^{xii} This declining trend has been particularly strong in the rural areas. If women are given access to as much formal work as men, India would experience as much 1.4 percent additional GDP growth^{xiii}.

ORIGIN OF DISPARITY

In the organized sector or as a matter of fact, even in the unorganized sector, it can be inferred that there is an extensive discrepancy in the wages, given to both men and women. The issue lies in the fact that both sexes are given equal work, yet it is the men who are paid more, despite being less efficient in certain circumstances. This situation has clearly aggravated at an advanced work level, which means there is an explanation for the discrepancy in wages at the ground level.

At a very young stage in their lives, the women are deprived of the basic necessities to education, and there continues to persist a lack of exposure when it comes to the enhancement of skills. They lack the necessary foundation of the required skills in an industry, as a result of their inability to attain education, at a school level. They are not given any form of training and are made to overwork relentlessly without any form of recognition of the same. This leads to women getting employment in jobs that offer low or negligible wages.

On the other hand, men are exposed to higher levels of education, cutting edge skills and are at the receiving end of more opportunities that give them access to jobs with relatively higher wages in the unorganized sector. Apart from the lower wage, the women are compelled to take up mandatory secondary jobs, which requires them to be confined to the household and maintenance of their families. India ranked at the 142nd position in terms of economic opportunities offered to both women, likely as a result of the difference in the wages in the

gender.^{xiv} It is evident that women are at the disadvantageous side in the work sector and moreover, continue to face endless discrimination in the work environment.

Apart from the gender norm imposed rampantly on the women in the society, there are several factors that lead to the mounting gap in wages. There is minimal or no job security offered to women.^{xv} There is negligible assurance provided to them, regarding their employment and are subject to termination of their position, without any legal or sufficient cause. This is seen aggressively when women wish to take maternity care.^{xvi} There is no framework of organized policies or laws governing the rules and regulations for women undergoing motherhood. From the employer's perspective, there is a false presumption that they become incompetent and inefficacious. This poses to be of extreme inconvenience resulting in women leaving their jobs due to the lack of effective policies and extra benefits for working pregnant women. In addition to this, the introduction of the advancement of technology has played an enormous role in eliminating the role of labour and increasing the inequality in incomes. This has also caused the displacement of low-skilled labourers and replacing them with technology. With the contemporary goal of countries to scale towards globalization and become a developed nation with a growing economy, this has unfortunately led to inflation and the elimination of manual work at an alarming rate. This could result in severe unemployment and a wide gap in the disparity of wages between the organized and the unorganized sector, while the brunt of it is faced by women who due to their circumstances are not as skilled as their contemporaries.

THE LEGAL AREA IN INDIA

“The debate on legislative protection for domestic workers has focused unduly on labour laws, ignoring the debates on the valuation of unpaid care and domestic labour and the consequences of such lack of recognition and valuation of unpaid labour. This tends to affect the determination of wage rates for domestic work”^{xvii}

The mobility of people from the unorganized sector to organized is obstructed, followed by the failure of the law to evolve extensively in a direction to protect the rights of the labourers in this sector. Furthermore, there is a lack of effective implementation of the existing laws, resulting in chaos and a subject to public concern.

The unorganized labour is guaranteed rights under the Minimum Wages Act^{xviii} but the workers are still not paid according to the above act. The government should make special provisions to address the issues of fixing fair wage, appropriate working conditions, protection from physical and sexual abuse to further encourage a shift of the unorganized labour to the organized.

One of the first of its type is the act that was passed in the year 2008 by the Parliament is the Unorganized Worker's Social Security Act^{xix}. The objective of the act is to provide for the social security and welfare of the unorganized labour in India.

The Unorganized Workers Social Security Act, 2008 has various schemes that are being run with the state ministries and their agencies mentioned in the acts schedule II has been mentioned below with each of these schemes have different eligibility criteria and benefits

- i. Pradhan Mantri Shram Yogi Maan-Dhan (PM-SYM)-A pension scheme for Unorganized Workers.
- ii. National Old Age Pension Scheme (Ministry of Rural Development)
- iii. National Family Benefit Scheme (Ministry of Rural Development)
- iv. Janani Suraksha Yojana (Ministry of Health and Family Welfare)
- v. Handloom Weavers' Comprehensive Welfare Scheme (Ministry of Textiles)

India being a ratifying nation to the International Covenant on civil and political rights, it is the undue obligation of the Government to protect the unorganized labour and help in the upliftment of labour in all scenarios, especially where intersectionality, low pay, hazardous work conditions exist. Other legislation, which were present before 2008 are the Workers Compensation Act, Maternity Benefit Act, and Building and Other Construction Workers Acts focus on the unorganized sector but again, the implementation of these Acts has been grossly inadequate.

Despite the various schemes that are available under the act, the drawbacks of the same are quite grave. One of the first errors comes up in the definition of the unorganized worker under section 2(m) of the act.^{xx} The definition has in effect excluded a significant portion of the unorganized labourers engaged in fields of agriculture and cooperative sector along with women workers, who are engaged in some household work or other family occupations. The second main error being that even though the act has been termed as a social security act, the

same has not been defined anywhere in the act nor there exists any provision within the act, providing some form of social security.

Another question that arises is whether the existing laws are extensive enough to overlook the overall aspect of the workers in the unorganized sector. Under Article 39(d) of the Constitution of India^{xxi}, there is a principle that directs equal pay for both men and women in India. It demonstrates an entire framework to ensure the continuance of the legal right of workers to receive equal pay. Even though the Constitution in India firmly stands in solidarity with equal pay of workers, this was only executed after the case of *Kishori Mohanlal Bakshi v Union of India*^{xxii}.

There are several case laws that have contributed immensely to its jurisprudence, mostly regarding the protection of the rights of the workers in the unorganized sector. By recognizing the existing poor living conditions of the labourers, in *Neeraja Chaudhary v State of MP*^{xxiii} Amarendra Nath Sen, J reiterated that the mere passing of legislation aimed for uplifting the ‘downtrodden, the meek and the weak’ was the first step in the right direction, however, it was insufficient.^{xxiv} In the judgement, it was reinforced that the Government plays a rather significant role in uplifting the unorganized sector. The implementation of these laws, through human agencies is necessary for the benefit of the weaker section of the people.^{xxv} The Government’s role in identifying the existence of bonded labour is not enough, it is essential that these are executed properly by the Government ^{xxvi}.

Article 21 which states the ‘right to life’ also includes the right to livelihood which was stated in *Rural Litigation and Entitlement Kendra, Dehradun v Uttar Pradesh*^{xxvii}. In addition to this, Article 23 of the Constitution of India also prohibits the practice of bonded labour. Since begging is one of the most common professions in the unorganized sector, in *People Union for Democratic Rights v Union of India*^{xxviii}, the Court ruled begging as forced labour and a blatant violation of the fundamental rights of the citizen. This shows that the Judiciary has indeed stepped up in its role and reinforced decisions that comply with the provisions of the Constitution. Any deviation from the same has penal consequences and is outrightly rejected by the Court. In reference to PIL, in *Bandhua Mukti Morcha v Union of India*^{xxix}, the Government ought to take the appropriate measures to examine the core issues behind bonded labour and subsequently make efforts to eradicate the same as guaranteed under Article 21 of the Constitution of India. However, this judgement clearly seems to be merely suggestive in

nature rather than a judgement that mandates the examination of the fundamental issues behind this sector.

The impact of the very same can be seen in the same data from the employment-unemployment survey which shows that even the formal sector has been now taking up workers without formal contracts. This significant increase in employees without contract can be seen from at 2.5 crore in the year 2011 to 3.7 crore in 2017. This, in turn, has upended much of the other work by other government organizations to help transition the unorganized worker to the organized.

It has also been pointed out that the abundancy of laws, which are complicated and ineffective in their application or not even applied at all, has further flourished the corruption practice and collection of weekly funds from the unorganized sector. Despite the fact there are a diverse number of laws, that have been introduced for the protection of the workers in both sectors, there is a tangible need to implement and execute these laws with utmost strictness and authority. Some of the main criticisms of Indian labour laws stems from the fact that these laws are quite stringent and rigid in their application with various mandatory legal requirements. With the growing population, there is already an increase in the unemployment rate, ensuing a wide gap in the wages.

POSSIBLE SOLUTIONS

It is very unlikely that a lower caste woman will secure a high-paid job with maternal benefits and extensive job security. This is hampering the economy of the country since both sexes are not working up to their maximum efficiency, leading to the slow rate of development. It can easily be said that if equal opportunities and wages are provided, there is a greater chance of progress, subsequently resulting in a booming economy. It is of paramount importance to eliminate the gender and social conventions imposed by the society and demand for equal prospects in the 21st century to both men and women.

The issue that arises, at hand, is whether there is an essential requirement for basic income to all the citizens of the country. It is seen as a benefitting factor, in order to reduce the disparity caused in the wages. Evidently, equal pay to all seems like the most valid solution to diminish the gap between the sectors and contribute to the growth of the economy and development. This would also ensure health benefits, and their necessities are met with the standard amount

of wage, all employees would be given. This would overall result in the upliftment of both men and women. In addition to this, it could help in the eradication of poverty and the further elimination of discrimination on financial and economic grounds. However, there seems to be various drawbacks about this kind of scheme. A lot of casual domestic labourers will be forced to work in order to earn a minimum amount of money for their living. This could result in rampant exploitation by the employers. If they refuse the basic income, they will be neglecting their own social welfare. In other words, many citizens, particularly those belonging to a lower class, will be coerced into performing a job they do not wish to, primarily because the pay will be an essential factor on their course of living. Generally, many employees often tend to lose the incentive to work since they will be accessing the necessary level of income without much effort. This could hamper the advancement of the work. As a result, if a scheme like Universal Basic Income is going to be implemented, it is essential to have certain conditions and policies that cater towards the protection of the workers and prevent exploitation by the employers, in the unorganized sector.

CONCLUSION

The unorganized sector, specially the marginalized communities are at a greater risk of losing their jobs. It is pertinent that the Government takes the appropriate measures to introduce strategies and take the required steps to ensure that these institutional guidelines are being executed. The irony lies in the fact that even though there are existing laws, aimed to safeguard the interests of the workers, however, the fundamental issue behind the failure of this kind of protection is lawlessness and the unceasing lack of regulation. These laws have been rendered ineffective and have subsequently resulted in the suicide of a huge number of domestic workers due to the prolonged periods of living in debt. It is significant to recognize if the laws are implemented properly, this could bring an enormous amount of public support and lead to the growth of not only the economic aspects of the nation but also to the socio and political elements of the country. Regarding women, it is imperative to execute laws in a more defined manner, to raise the unfortunate working conditions of the women in the unorganized sector. Specific measures need to be taken to protect their interests and more incentives should be introduced for a working woman. This would not only lead to the extraordinary participation of women to work but also help in the total development of the country in all aspects. It would

also increase the GDP rate at an extensive rate. Lastly, this would also give them the exclusive fundamental right to raise their voices against exploitation and augment bargaining power.

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