
COLLECTIVE BARGAINING AND UNIONIZATION IN THE UNORGANIZED WORKERS: ORGANIZATION THE UNORGANIZED RACE

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ABSTRACT

Collective bargaining is a process by which employers attempt to negotiate an agreement with the trade unions rather than dealing with individual workers specifically over employment term and conditions of working. This collective bargaining helps the workers to raise their voice for their needs like proper working condition, salary working hours, safe drinking water etc, from the employers. It provides the surrounding for the negotiate between the employers and the workers or their trade unions.

Collective bargaining and unionization have been recognised as an essential tool for protecting worker's rights, improving working conditions and also used to ensure social and political justice. However, it's importance become more significant when it came to developing country like India, where the unorganized workers contribute to the substantial portion of the workforce. These workers are engaged in diverse sectors, which includes construction work, domestic work, agriculture related stuffs, street vending, transportation, and other informal occupations, often without written contracts, social security benefits, job security, or effective legal protection. Their fragmented nature, economic vulnerability, and lack of institutional representation have historically made collective action difficult.

Despite of their immense contribution, these workers have historically remained outside of the ambit of the formal labour legislations and their protections. Their scattered nature of works, insecure employment conditions, lack of social security, and limited awareness of legal rights have made them particularly vulnerable to the exploitation and economic uncertainty. The COVID-19 pandemic further exposed these vulnerabilities, highlighting the urgent need of a comprehensive framework to identify, organize and protect the unorganized workers.

This paper examines the role of collective bargaining and unionization in empowering unorganised workers and analyses the initiatives undertaken by the Government of India to improve the condition of unorganized workers.

INTRODUCTION

“[W]hensoever [workers] are engaged in work that serves humanity and is for the building of humanity, it has dignity, and it has worth.¹”

Collective bargaining is an important way through which employers and their organizations and trade unions can establish fair wages and working conditions. It also provides the basis for sound labour relations.² The phrase collective bargaining is made up of two words collective which means united or a group action and bargaining implies negotiating. So put together it means collective negotiation or group negotiation.³ For any establishment either run through organised or unorganized labour force. The people involved in the negotiation are on one side the representatives of management and on the other the representatives of employees or unions. Collective bargaining and unionization are important tools for workers to negotiate for better wages, benefits, and working conditions⁴. However, organizing unorganized workers can be a challenging task and one of the reasons for the same is temporary nature of work.⁵ Country like India where Human Right for downtrodden and weaker mass is just joke. Martin Luther King Jr. said human rights are labour rights.⁶

Herbert Spencer propounded the theory of survival of fittest⁷, on the pari passu for the society survival of strongest. There is a Hindi proverb that means single piece of wood breaks easily but the same in group cannot break easily. Collective bargaining is a process of negotiation between an employer and a group of employees represented by a union. The purpose of collective bargaining is to reach an agreement on various terms and conditions of employment, such as wages, hours of work, benefits, and working conditions. The negotiation process involves both sides presenting their proposals and negotiating to reach a mutually acceptable agreement.⁸

Collective bargaining can take place in various forms, such as face-to-face meetings, email

¹ Developments – Labour and Employment, Harvard Law Review (2023), 136, 1587

² Collective bargaining and labour relations, <https://www.ilo.org/global/topics/collective-bargaining-labour-relations/lang-en/index.htm>.

³ SHUBHANGI AGRAWAL, *Collective Bargaining in India: A Critical Analysis of its Structure and Framework*, 6 *IJLMH*, 2075, 2075(2023).

⁴ *Id.* at 2076.

⁵ Dr. Poonam Madan, PROBLEMS AND CHALLENGES FACED BY UNORGANISED SECTOR WORKERS, 15, 2020.

⁶ *Supra* notes 1 at 1588.

⁷ *Survival of the fittest- A management perspective*, IILS, *Survival of the fittest- A management perspective*.

⁸ *Supra* notes 3 at 2076.

exchanges, or through a mediator. It is governed by laws and regulations that vary from country to country. In some countries, collective bargaining is a legal right of employees, while in others it is voluntary and subject to mutual agreement between employers and unions.⁹

The main cause of the non-action of worker is that these workers are unable to exert themselves as a coordinated political and economic force. Workers from other countries were never included in the trade union scene. There was practically any trade union to explain and represent the migrant workers' legal rights. Therefore, the persistent problem facing our employees raises important concerns about the trade unions' "realistic capability" to expand their influence among the large mass of unorganized workers in the nation.¹⁰

The benefits of collective bargaining include the ability of employees to negotiate for better wages and benefits, as well as improved working conditions. It also allows for a more equitable distribution of wealth and power between employers and employees. On the other hand, some critics argue that collective bargaining can lead to reduced efficiency and competitiveness of businesses, and can sometimes result in strikes and other forms of labour disputes.¹¹

Maximum struggle for minimum wage, the struggle for the minimum wage was not smooth, it takes a long time to reach at the point and in the whole process the role of collective bargaining and unionization. Government of India has in recent years passed many legislations to protect the interest of unorganized sector labour. Some of the legislations have clear definition of unorganized worker and have provisions related to collective bargaining. On the website of the ministry of labour and employment the details about the same is in this manner:¹²

"The term unorganized worker has been defined under the Unorganized Workers' Social Security Act, 2008, as a home-based worker, self-employed worker or a waged worker in the unorganized sector and includes a worker in the organized sector who is not covered by any of the Acts mentioned in Schedule-II of Act i.e. the Employee's Compensation Act, 1923 (3 of 1923), the Industrial Disputes Act, 1947 (14 of 1947), the Employees' State Insurance Act, 1948 (34 of 1948), the Employees Provident Funds and Miscellaneous Provision Act, 1952 (19 of

⁹ Supra notes 1 at 1599.

¹⁰ Sudha Menon, *Migrant worker crisis: Why trade unions are missing in India's informal sector*, The News Minutes, (Jul 21, 2020) <https://www.thenewsminute.com/article/migrant-worker-crisis-why-trade-unions-are-missing-india-s-informal-sector-129131>.

¹¹ Supra notes 3 at 2079.

¹² Unorganized Worker, <https://labour.gov.in/unorganized-workers>.

1952), the Maternity Benefit Act, 1961 (53 of 1961) and the Payment of Gratuity Act, 1972 (39 of 1972).”

GOVERNMENT INITIATIVES

The steps taken by the government of India to ensure, however in limited sense, collective bargaining and unionization in the unorganized workers. Prior to this, government of India have not any kind of data of informal labours or unorganized labours. Some of the initiatives for the same started by government of India in and after Covid-19 crisis to secure their dignity and for supply the necessary remedies.

1. eShram: The portal for the registration of Unorganized Workers across the Country was launched on 26th August 2021. This portal will help build a comprehensive National Database of Unorganized Workers (NDUW) in the country. The portal will prove to be a huge boost towards last mile delivery of the welfare schemes for crores of unorganized workers for more than 38 Crore workers. The registration is totally free for the workers¹³.
2. Pradhan Mantri Shram Yogi Maan-dhan (PM-SYM): Pradhan Mantri Shram Yogi Maandhan Yojana is a government scheme meant for old age protection and social security of Unorganized workers¹⁴.
3. Aam Admi Beema Yojana: In India, the unorganized workers alone can constitute to about 93% of the country total work force. The Government has been implementing some social security measures for certain occupational groups but the coverage is miniscule. The majority of the workers are still without any social security coverage¹⁵. Recognizing the need for providing social security to these workers, the Central Government has introduced a new social security code in the Parliament and start enforcing it into practical life.¹⁶

Addition to that some steps are mentioned below that can be taken to organize unorganized

¹³ <https://eshram.gov.in/>

¹⁴ Pradhan Mantri Shram Yogi Maan-dhan (PM-SYM), a government of India initiative.

¹⁵ Unorganized Worker, GOI MoLE, <https://masterlabour.digifootprint.gov.in/offering/initiative/details/unorganized-worker-MzM5ATMtQW>

¹⁶ *Id.*

workers:

- Identify the workers: The first step is to identify the unorganized workers and their workplaces. This can be done through surveys, community outreach programs, and other methods.¹⁷
- Build trust: Building trust with the workers is crucial. This can be done through building relationships, addressing their concerns, and being transparent about the organizing process.¹⁸
- Form a union: Once the workers have expressed interest in unionizing, a union can be formed. The union should have a clear vision and goals, and should involve the workers in the decision-making process.¹⁹
- Educate the workers: It is important to educate the workers about their rights and the benefits of unionization. This can be done through training programs, workshops, and other educational initiatives.²⁰
- Mobilize the workers: Mobilizing the workers is crucial for the success of the organizing effort. This can be done through rallies, demonstrations, and other events.²¹
- Negotiate with the employers: Once the union is formed and the workers are organized, negotiations can begin with the employers. The union should have a clear bargaining strategy and be prepared to negotiate for better wages, benefits, and working conditions.²²

CONCLUSION

Collective bargaining and unionization remain among the most effective tool for securing justice, dignity and economic security of workers. Their importance is particularly seen in case

¹⁷ Sidra Khan, *Unorganised sector: problems of facilities, wages and job security*, ipleader, (dec 25,2020), <https://blog.ipleaders.in/unorganised-sector-problems-facilities-wages-job-security/>.

¹⁸ Supra notes 5 at 15.

¹⁹ Supra notes 1 at 2080.

²⁰ Rakesh kumar, *Unorganised labour force in India*, GOI, <https://socialwelfare.vikaspedia.in/viewcontent/social-welfare/unorganised-sector-1/unorganised-labour-force-in-india-unorganised-sector-1-1?lgn=en>

²¹ Supra notes 1 at 2079.

²² *Id.*

of unorganized workers, who always works under the petty conditions, receives inadequate wages and lack of social security access and legal protection also.

The unorganized workforce constitutes the largest part of India's labour force and plays an indispensable role in the India's economic development. In spite of that for decades, these workers remained largely outside the framework of formal labour protection, collective bargaining, and trade union representation. Their scattered workforce, irregular employment relationship, lack of documentation and limited awareness of their legal rights made the collective organization a challenging task. COVID-19 pandemic exposed the real problem and brought the attention towards the needs of their recognition, and social security.

In response to these problems, Government has taken several initiatives towards integrating unorganised workers into a formal welfare system. Some the Government initiatives are the eShram Portal, Pradhan Mantri Shram Yogi Maandhan Yojana, and Aam Aadmi Bima Yojana, these program shows the government effort to identify the problems related to the workers, create comprehensive data base and extend social security benefits to them. The implementation of social security code further reflects an evolving commitment to protecting the rights and dignity of informal workers.

However, these social security alone cannot fully address the structural problem faced by them but it also requires sustainable empowerment such as effective collective bargaining and strong worker organizations which helps in building trust within the community, educate them about their legal rights, mobilizing collective action and engaging in meaningful negotiations with employers. These steps not only improve their working condition and wages but it also build confidence, trust and feeling of belongingness.

However, social security measures alone cannot fully address the structural vulnerabilities faced by unorganized workers. Sustainable empowerment requires effective collective bargaining and strong worker organizations. Identifying workers, building trust within communities, educating them about their rights, facilitating union formation, mobilizing collective action, and engaging in meaningful negotiations with employers are essential steps toward creating a more equitable labour environment. These efforts not only improve wages and working conditions but also strengthen workers' confidence, participation, and sense of belonging.