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A Study on the Challenges faced by the Women Fish Vendors with Special Reference to Chennai

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ABSTRACT

Since ancient period increase of the fisheries population there still exist the poverty and financial instability in the life of fish women vendors in Tamil Nadu. The women fish vendors are at the lowest level of their knowledge towards the law abide to them and the profile in terms of their socio-economic conditions. The women fish vendors are almost neglected in the main and maximum amount of fishes were catches by the fishermen. Women fish vendors are always physically and mentally weaker and affected by the local rowdies and policemen in sometime, they lose their earnings to such policemen and rowdies in force. The current law is not much effective to the fisheries and their family. Fishers are commonly uneducated and poor in the society and they are put hard work to make their children educated. Most of the women fish vendors are treated differently by the society, the workplace of them is not clean and hygiene. The present study is an attempt to analyze the highlights the challenges faced by the fisher women with special reference to Chennai. A total of forty fish vending women were selected for the study and the collected data were shown in percentage.

Keywords: women fish vendors, Socio-economic, legal condition

I. Introduction

Women are currently working in all the phases of fish production, processing and distribution across the world and contribute to the generation of wealth, the preservation of aquatic ecosystems, and the maintenance of family maintenance and communities in rural and coastal regions areas. They make up half of the workforce and play a vital role in fisheries and aquaculture economies.³ However their hard work and dedication never recognized by official statistics, sector policies and development programs. The FAO only collects statistics on the primary fish production sector, in which women make up only 14% of workers, as estimated from returns by a limited number of member countries. FAO does not collect data on the

¹ Author is an Advocate in India.

² Author is an Advocate in India.

³ Food and Agriculture Organization of the United Nations [FAO], "The future of food and agriculture trends and challenges", Rome, 2017, pg no 17

secondary sector that employs many more women, and statistics on small scale fisheries where women are more numerous than in industrial fishing are relatively poor, Global and most national fisheries policies are gender-blind. The 2014 Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries (VGSSF) in the Context of Food Security and Poverty Eradication was the first major fisheries instrument to incorporate gender equality. The most relevant Sustainable Development Goal (SDG), number 14, which focuses on Life below Water, is one of the few SDGs not to contain gender targets Entity for Gender Equality and the Empowerment of Women.

Women face many inequities in wages and access to productive resources, technology and markets. Despite decades of research documenting women's economic contributions, collective action to advance women's interests and rights, and more recent institutional efforts to mainstream gender inclusion in fisheries development programs, achieving gender equality and women's empowerment in this sector remains a challenge. This Special Issue advances this non doctrinal research that focused more on the gender division of labor in fisheries and aquaculture toward a wider and deeper analysis of how gender constructs and unfolds in multiple dimensions of the sector.

India occupies the topmost position in contributing to the fish production. The Tamilnadu is one of the largest states in India and is characterized by the existence of several fishery ponds dispersed in industrial and agricultural belt of the State. In this context the present study highlights the challenges faced by the fisher women with special reference to Chennai.

Background of study

India is one of the countries where a major part of the area is covered under seashore. As a result, the major population of these regions is fully engaged it selves in fish farming and fish catching. The socio - economic and legal status of these people is highly dependent on the income from this occupation and general knowledge about the Indian legislation.

This paper elaborates on how women, who have always played an important role in the fishing industry, are now in a position to play a meaningful role in fisheries management and administration too, with the increasing number of women getting an education or training in this field. The fishing industry in India has seen much progress in recent years and this development now calls for professionally trained manpower for both technical and

⁴ Nilanjana Biswas, "Women Rising" Published By FAO, Rome, 2017, pg.no. 75

⁵ Nikitha gopal, "Expanding the horizons for women in fisheries and Aquaculture" Gender and fisheries Journel, vol 24, 2020, issue no 1

administrative purposes.

Women have traditionally participated in most post harvest operations including marketing, apart from other activities such as net fabrication and repair. In the process they have developed a keen feeling for the industry and ingenious ways of managing the fish caught, so as to maximize their earnings. As in most families living at subsistence levels, the woman plays an extremely important role in fishing families too, as a home maker. It is her thrift and ingenuity that often keeps the family together, as the men folk are generally wasteful. Therefore everything possible must be done to better the lot of these women.⁶

Review of Literature

While surveying the literature the researcher finds that there are numerous studies done from different angles by social scientists at macro, regional, National and International level based on primary as well as secondary sources of data. This chapter makes an attempt to review some of the relevant existing literatures concerning the challenges of the fisher women in fishing sector with special reference to Chennai

B. Ahilan, and P. Selvaraj, in an article titled "Levels and Patterns of Earnings of Fisher Women in the state of Tamil Nadu" have made a comparative analysis of fishing related and non-fishing related activities in the state of Tamil Nadu. The overall mean income from self- employment in fishing related activities worked out Rs.2568.28+Rs.373.33 with a C.V. of 14.56%. The mean for wage employment was Rs.3176.04+2752.71 (86.67%) and for self employment it was Rs.2416+348.18 (14.41%). The fisher women respondents could earn 48.98% of their income from non-fishing wage employment. The magnitude of 7 variation from household to household was the highest in case of wage employment in non-fishing activities.⁷

Arundhati R. Choudhury in a research study titled "Common Property Resource Management: Gender, Equity and Participation – A Case Study of the Fish Workers of Kerala" has analyzed the problems encountered by the fisher women community in the small scale fisheries sector. She expressed that the survival of artisan's fisheries stands threatened due to increasing pressure on resources. This is mainly a result of the ongoing nature of development and lack of adequate management and regulatory measures. Women not only shoulder all the responsibilities, but face increasing workloads as men migrate to cities in search of labour, leading to a feminization of fisheries. When the catches are landed on harvested, women generally do most of the fish

⁶ Sudhindra R. Gadagkar, "Women in Fisheries Management and Administration", 2nd edn, p.48-49.

⁷ B. Ahilan, P. Selvaraj, "Levels and Patterns of Earnings of Fisher Women in the of Tamil Nadu", Fishing Chimes, Vol.II, No.7, 1991.

processing, preserving and storing as well as selling the fish at the Markets. Despite their involvement in the fishing sector, women's operations are often small-scale and their incomes are low as compared to those of their male counterparts.⁸

Huang's paper titled "HIV/AIDs, Among Fisheries: Vulnerability of their Partners" has referred mainly to the Asian situation and also draws widely from information on Africa and other parts of the world. Women in the lives of these fishermen find themselves in double jeopardy. Not only they are vulnerable in terms of the meager income they receive from their husbands, but the behavioral pattern of fishers (involvement in drugs and sex) only serves to exacerbate their vulnerability to the infection.⁹

H.D.R. Iyengar, in an article "The Fisheries of India–Present Status and Proposed Development" has surveyed the fishing industry in India. Fishes of commercial importance are listed, along with fishing gear, and methods employed in fishing are briefly described. Mentio is also made of the post-war development scheme as outlined in the policy of the Government of India.¹⁰

Pandey and Mishra in their work titled "Cooperatives and Fisheries Development (with Special Reference to Districts of Faizabad Ambedkar Nagar (Uttar Pradesh)" have studied the role of cooperatives in the development of fisheries in the Faizabad and Ambedkar Nagar District of Uttar Pradesh. The study presents that fisheries cooperatives are destined to play important role in enhancing the fish production and socio-economic conditions of the fisherman. The cooperative should be strengthened all the national, District and village levels to fasten the process of development. Future growth in this sector will depend largely upon what happens to the demand for selected fishery products relative to the demand for protein sources, and on relative production costs.¹¹

T. Rathakrishnan, and others in their research work "Traditional Fishing Practices Followed by Fisher Folks of Tamil Nadu" have pointed out that India is the world's fourth largest fishing nation, accounting for over 4.39% of the global output. It is also a major contributor of foreign exchange earnings for several countries including India through export. The potential forward

⁸ R. Arundati, Choudhury, Common Property Resource Management: Gender, Equity and Participation –" A Case Study of the Fish Workers of Kerala", Indian Social Institute, New Delhi, 2001.

⁹ M. Huang, HIV/AIDs, "Among Fisheries: Vulnerability of their Partners", in Williams, M.J., et.al. (ed.) op.cit., 2002.

¹⁰ H.D.R. Iyengar, The Fisheries of India–Present Status and Proposed Development, Watumull Foundation, Mysore, Vol.78, Issue 1, January 1950.

¹¹ A.C. Pandey, and J.P. Mishra, "Cooperatives and Fisheries Development (with Special Reference to Districts of Faizabad Ambedkar Nagar (Uttar Pradesh)" in S.N. Tripathy, (ed.), Cooperatives: Its Growth and New Diversions, Discovery Publishing House, New Delhi, 2000.

and backward linkages through boat building, construction of fishing Harbours, fish processing etc., contribute further to diversification and strengthening of the regional and national economy. Modern fishing devices like motor boats are increasing the pollution and destroy the natural environment. But the ancient tradition of fishing by using the traditional devices like Pari, Katcha, Ootha, Sorati, Catamaran and Karaivalai have become sustainable way of harvesting inland and marine life without damaging the environment of coral mangrove, wetland and sea-grass bed habitats. It has been practiced by the coastal fishing communities.¹²

Objectives and scope

The fishermen community is economically weak, and most of the fishermen and fisher women are ill-educated in spite of moderate earnings. They find it difficult to run the family, as their income is unsteady and they have wrong spending habits. This results in poverty. To compensate this, they seek the help of money lenders for their economic needs. The fishermen have lot of provision under the Indian legislation and state government schemes but most of the fishermen not aware about those provisions due to ill-educated and most of them have not using any social media or Tele-communication to aware about the existing provision. The focus of the study is to evaluate the challenges by the fisher women who are un aware about their rights and provisions available in statue. The study has been made from the point of view of all types of fisherwomen such as small, medium and large community of fisheries. The study is conducted in different areas in Chennai, like Kasimedu, Ennore, Thiruvottiyur, Pattinambakam, Nilangarai, Palavakkam are some of the major fishing areas in Chennai Tamilnadu State situated along the Gulf of Manner belt of India.

This study is taken up with the following objectives.

- 1. To evaluate the growth of fishing in Tamilnadu State
- 2. To review the schemes introduced by the Government of Tamil Nadu to promote the socio-legal conditions of fishermen.
- 3. To trace the working conditions of fisherwomen in Chennai.
- 4. To study the knowledge of fisherwomen about the legal legislation available to them.
- 5. To trace the fisher women working hours and health hazard in Chennai.
- 6. To suggest ways and means of improving the working conditions of fisherwomen in

¹² T. Rathakrishnan, and S. Anitha, "Traditional Fishing Practices Followed by Fisher Folks of Tamil Nadu", Department of Agricultural Extension and Rural Sociology, Agricultural College and Research Institute, Madurai – 625 104, Tamil Nadu, 3 February 2009. Pg 48

Tamilnadu State based on the findings of the study.

Limitation of study

The present study, being an empirical one, has certain in-built limitations such as the respondents are mostly illiterate and shy and also in some cases, uninterested. The primary survey research method of data collection is based on the recall of memory because the fishermen of the study region do not maintain proper records. So it cannot be free from its limitations particularly in the case of literate and semi-literate respondents.

Hypothesis

Various problems like long working hours, overtime, and nonpayment of wages in full and on time, harassment, unsatisfactory working conditions, violence, and interdepartmental conflicts are encountered by the workers in Fishing Industry. There is no adequate legislative protection for the woman workers employed in the fishing Industry in India resulting in exploitation of workers.

Methodology adopted

Keeping in view the aforesaid purpose, objectives and scope of the study of research the researcher has followed non-doctrinal method. Non-doctrinal research aims at highlighting the gaps that exist between law in the statute book and law in action.

In Non-Doctrinal Research the researcher applied Questionnaire method as a tool to collect data. Some of the respondents are illiterates and so the Schedule method is also used for data collection. The Questionnaire is framed in such a way that it contains both open and closed ended questions which would serve the purpose. The primary data have been directly collected from the respondents. The primary data provided the researcher with the most reliable first-hand information about the respondents.

The Doctrinal research is conducted by reference taken from existing legislation, journals, Labour reports, internet and newspapers. The books collected from library constitute the secondary source of data collection for this purpose.

II. WOMEN FISH VENDORS IN CHENNAI - AN OVERVIEW

Fish vending is a traditional occupation that has been a means of livelihood for thousands in India, with the majority of fish vendors being women (International Collective in Support of Fish workers). Fish vendors engage in their trade in various ways: they procure their fish

directly from landing centers, where they participate in daily auctions of the catch; they buy from traders and merchants; or they buy from the wholesale markets for resale at retail/local markets.

Vendors also carry out value addition by sorting, grading, cleaning and icing the fish.

Fish may be sold either as,

- 1. fresh fish that is stored in ice and sold in local or distant markets or door-to-door by vendors, or
- 2. salted, dried or smoked fish, which is sold in local markets or to merchants who take it to other markets once it is processed; such processing is usually done by women using traditional methods (International Collective in Support of Fish workers)

Women fish vendors in Chennai

Women are found the majority vendors when compared to men in Tamilnadu. They collect fish from middlemen through bargaining in the early morning and carry long distances as head loads and some of them travel by share autos (mode of travel in Tamilnadu). Though fish being perishable commodity and sold immediately there is a long process involved before selling in the market. Fish has to be cleaned and sorted. Sorting of fish involves grading the fish in to three varieties. After the process of sorting it has to dried, which require about two to four 116 days of time for drying each lot. Bulk fish is dried right on the beach sands very contiguous to the fish landing places or nearby habitation beaches.

A few fisher women dry the fish at home yard. Women fish vendors sell their products either to the retailers or direct consumers. Women sell fish either as wanderers along the streets or vending in particulars place or market vending. Fisher women also carry vending equipment (utensils, knifes, wooden boards and blocks) for fish scaling and cutting. Thus, Women fish vendors function as an important link between producers and final consumers.

Women fish vendors are among the most hardworking in Kerala. They are also among the most exploited. This paper describes the role played by these women in the fish marketing system in Chennai and recounts the numerous problems faced by them at each stage in procurement, transportation and marketing, apart from having to shoulder the major responsibility of ensuring the well-being of their families. The author also traces the evolution of collective action and organized protests by these women and describes some of their accomplishments.

Magnitude of women fish vendors

Women fish workers in India, as in other parts of the world, play critical roles within the

fisheries and fishing communities, roles that are often not recognized or supported. Women are particularly active in postharvest fisheries; in marine fishing communities in India, for example, women comprise about 75 per cent of those engaged in fish marketing. They contribute in significant ways to the food security needs of a diverse range of consumers.

India stands second in the world in total fish production, after China, with a production of 7.3 million tons in 2007 (Source: Fish stat, FAO, 2009). The annual per capita consumption of fish in India was estimated at 4.8 kg in 2003¹³. Inland fisheries are especially important for food security as almost all production goes for human consumption. Fish is especially important for the economically weaker sections of the population, providing a cheap and accessible source of protein and essential micronutrients. A large section of the population also depends on fishresources (both marine and inland) for their livelihoods, employment and income. Currently, 14 mn people are estimated to be employed in the fisheries sector, which contributes 1.07 per cent of India's gross domestic product (GDP). In the contributes of India's gross domestic product (GDP). In the contributes of India's gross domestic product (GDP). In the contributes of India's gross domestic product (GDP). In the contributes of India's gross domestic product (GDP). In the contributes of India's gross domestic product (GDP). In the contributes of India's gross domestic product (GDP). In the contributes of India's gross domestic product (GDP). In the contributes of India's gross domestic product (GDP). In the contributes of India's gross domestic product (GDP). In the contributes of India's gross domestic product (GDP). In the contributes of India's gross domestic product (GDP). In the contributes of India's gross domestic product (GDP). In the contributes of India's gross domestic product (GDP). In the contributes of India's gross domestic product (GDP). In the contributes of India's gross domestic product (GDP). In the contributes of India's gross domestic product (GDP). In the contributes of India's gross domestic product (GDP).

Classification women fish vendors

House to house sale

Many small scale vendors go from house to house to sell fish, mainly in urban areas. Since visits are made to the same area every day, the vendors get to know consumer preferences and can make purchases accordingly. A cordial relationship usually exists between the vendor and the families, with the vendor cutting and cleaning the fish for them and occasionally receiving gifts, apart from payment for the fish.

• Licensed markets

These markets, managed by panchayats, municipalities or corporations, accommodate a number of small sellers who are charged a certain amount for the privilege of a place in the market. The atmosphere in such markets is highly competitive.

• Unlicensed markets/Hawking

Some women sell fish at road sides and junctions where they can attract crowds. They are often harassed by the police for hawking at open places.

Problems of women fish vendors

¹³ http://www.fao.org/fi shery/countrysector/FI-CP_IN/en

¹⁴ FAO, 1999. Future challenges in world fi sheries and aquaculture. 23rd Session of the Committee on Fisheries, 15-19 February 1999, Rome.

¹⁵ http://www.mrag.co.uk/Documents/PolicyBrief3_Food_Security.pdf

¹⁶ http://www.dahd.nic.in/

• Procurement of fish and transportation

Procurement of fish is a difficult task involving much investment and expenditure. The women often go to neighboring districts to collect fish from fishing harbors, and return home only on week-ends. They make daily trips to the markets, and spend the night in the harbour or in railway stations in order to buy fish in the morning.

Fish is highly perishable and has to be sold quickly. But as it is generally not allowed in public transport it is carried as a head load by women (or on bicycles by men). Fish vending by women involves hours of hard labour, with head loads being carried long distances. A woman fish vendor may travel a distance of 20 to 30 km in buying, transporting and selling fish, thus spending 9 to 12 hours each day away from home. The distance travelled depends on the place of purchase. Those who can buy their fish from wholesale markets usually cover a distance of less than 10 km.

However, those women who have to buy fish from the sea shore not only have to spend a lot of time as the boats arrive one at a time, but also have to cover very long distances, as the major consuming centers are usually far away from the sea shore. If the boats arrive late the vendors are forced to form small groups and hire a taxi each. It is important that they reach the market before the day's business gets dull and before the iced fish arrives, which is brought in large quantities from distant places and sold cheaper than fresh fish. This additional expense is a big drain on their income.

Some vendors hire cyclists to carry their fish to sale points and the vendors themselves travel by public transport. This also costs them heavily. Besides, some fish often gets stolen on the way. Those who go to harbors find it convenient to travel by train along with their fish, and some do. Since this is not permitted, however, they are harassed by checking squads and even the porters at the stations. To procure dry fish, these women often travel by lorries in groups, to places sometimes as far off as Mangalore, to avoid being cheated.

• Working capital

The main problem of the fish vendor then was the uncertainty in the income from the day's sales, as the customers always have the choice of not buying any fish on days when the price or quality is found unacceptable. However, the vendor would obtain her fish from the traders on credit, and only had to be regular in making her payments in order to be given fish on credit again.

Recent years have seen decreasing amounts of fish at the beach. The vendors are therefore, being forced to move out to either wholesale markets or to fishing harbors in distant places. The

trading in the new set-up is often with strangers and relationships are business-like. Fish is no longer given entirely on credit.

Female fish vendors are generally from poor families and rarely possess ready capital to buy fish every day. The only option left very often is to borrow. Friends, relatives and private money lenders are the usual sources of credit, with varying rates of interest. Although there are several special schemes with low interest rates for economically weaker sections, these women are unable to obtain loans from banks as they have no assets of their own to use as collateral.

Private money lenders charge very high rates of interest. If Rs.100 is to be borrowed, only Rs. 90 is given in the morning and Rs. 101 has to be returned in the evening. Such high interest rates cut on the meagre income they earn, thereby forcing them to cut back on the requirements of the family.¹⁷

Marketing costs

The quantity of fish handled and the costs involved show considerable variation.

For example, several old women carry on the trade in small quantities merely to ensure their independence. Robust and enterprising young women on the other hand, even become wholesalers, buying in bulk and selling to other women vendors. Some vendors form informal groups and pool resources and carry on their trade.

The price paid for the fish depends upon the variety and the place of procurement, among other things. Marketing costs involve commission or fees to middlemen, market taxes, cost of ice, transportation charges, food, interest on loans etc. Transportation and food alone account for 60 to 80 percent of the marketing costs. Market tax collection is a highly lucrative and exploitative business. The authorities usually auction the job of market tax collection to private contractors, who often demand two or three times the stipulated tax from the vendors. Women refusing to pay these unjust 'taxes' have been beaten up and their fish destroyed.¹⁸

Other Issues

The female fish vendor, despite her vital role in the fishing industry, not only faces various kinds of problems at each stage in her profession, but also has to hold on to the means of livelihood under constant threat of competition from sophisticated sales outlets such as refrigerated booths. Invariably, she undertakes the job of fish marketing in addition to the

¹⁷ Sudhindra R. Gadagkar (Ed.) "*Women in Indian Fisheries*. Proceedings of the Workshop on Women in Indian Fisheries,"27 May 1990. Special Publication 8, 51 pp.

¹⁸ Srinath, K. and Thangamani, K.," Empowering Fisherwomen. Asian Fisheries Society" 1992.edn, , Indian Branch, Mangalore, p.21-23.

household responsibilities of cooking, raising children, and attending to the needs of an often abusive and wasteful husband.

At the same time she also has to care for any unsold fish that she has had to carry back home, finding the time and energy to clean and salt the fish, and to dry it the next day. To add to her problems, her financial responsibilities at home are many. For example, the repayment of debts incurred for weddings and other family functions as well for contingencies such as illness, are her sole responsibility. In order to carry out these responsibilities she has to be consistently efficient and successful at procurement of fish and its marketing. These facts add up to make the life of the female fish vendor extremely stressful and with concomitant health problems such as back pain, headache and poor eyes. sight.

III. LABOUR LEGISLATION AVAILABLE TO WOMEN FISH VENDORS

The Constitution of India favors a political structure in which both the power and the responsibilities are appropriately divided among union and state governments, and therefore carries the feature of dual government.¹⁹ This clear demarcation of power to make rules has been clearly explained under article 246 of India's Constitution. Further state laws mentions fisheries as one of its prime subjects.²⁰ Therefore, there are various key legislations under state government which deal with the regulation of fisheries and related sectors. Fisheries in the maritime states of India, within the territorial limits of 12 miles, are dealt with under the Marine Fishing Regulation Act (MFRA). These acts are formulated on the guidelines provided by the modal piece of legislation prepared by the Ministry Of Agriculture, Government of India, in 1979, which was encouraged by the fishers operating unpowered fishing vessels to safeguard their fishing space and equipment from bottom trawlers.²¹ Currently, these legislations are not just restricted to the maritime states of the country but are quite widespread in other states as well, for regulating fisheries in inland waters.²² This development in particular can be seen as a positive initiative by other states that has and will help in taking such welfare measures to a higher level.

Labour legislation

Fish workers are unorganised and unprotected workers. They are also one of the most vulnerable sections of the country's labour force, belonging to socio-economically backward

¹⁹ Mahi Pal Jain, *Indian Constitution Law* 527 (2012).

²⁰ Ind. Const. sch. 7, list II, entry 21

²¹ International Collective in Support of Fishworkers, *Indian Legal Instruments* 2013, http://indianfisheries.icsf.n.get/en/page/827-Indian%20Legal%20Instruments.html

²² Provisions for regulating inland fisheries are present in the states of Bihar, Uttarakhand, Karnataka , Himachal Pradesh, etc

sections of the society.

In India, fishers and fish workers often live in remote places, close to the location of the fish they catch. These places are conspicuous by their absence of infrastructure facilities such as roads and communication, and other facilities.

There are a large number of labour laws in the country enacted by both the central and state governments. Many of these laws do not cover the interests of the fish workers specifically. On the contrary, several of these enactments have rather created serious hindrances to their development instead of promoting and protecting their interests. There are, however, a few laws that protect certain interests of the fish workers in the country.²³

Meaning and scope of labour legislation

Labour legislation also known as employment law or labor law is the body of laws, administrative rulings and precedents which address the legal rights of, and restrictions on, working people and their organizations. As such, it mediates many aspects of the tripartite relationship between trade unions, Employers and employees. In other words, labour law defines the rights and obligations as workers, union members and employers in workplace. The law relating to labour and employment in India is primary known under the broad category of "Industrial Law" Labour legislation is one of the most progressive and dynamic instruments for achieving socio-economic progress.

Evolution of Labour Legislation in India

Industrialization and British colonialism complex industrial relations inadequate civil laws protect and safeguard labour rights and labour policy.

Scope of Labour Legislations:

Generally labour law covers,

- Industrial relations
- Certifications of unions
- Labour Management relations
- Collective bargaining and unfair labour practices

²³ Dr. M.M. Rehman is senior fellow, V.V. Giri, Legislative Measures for fish workers in India national labour institute, UP, Vol 5, issue no 4, may-aug 2007

- Workplace health and safety
- Employment standards including general holidays, annual leave, working hours, unfair dismissals, minimum wage, lay-off procedures and severance pay.

Objectives of Labour Legislations

- To protect the workers from profit seeking exploiters
- To promote cordial industrial relations between employers and employees
- To preserve the health and safety and welfare of workers
- To protect the interests of women and children working in the factories.
- It establishes the legal system that facilitates productive individual and collective employment relationships and therefore a protective economy.

Labour Legislation available for Fishermen

Minimum Wages Act, 1948

The Act covers all of India and also covers employees engaged in any scheduled employment. Given the nature of fishing operations, the coverage and reach of the Act has remained limited. For example, inland fishers today are either self-employed or informally contracted, and are more often working for 'piece-rated' wages. The growth in aquaculture is also engendering such employment relations.

Since fish workers are unorganized and unprotected and belong to economically backward and vulnerable sections of the country's labour force, they do not ask for minimum wages.

The Supreme Court of India ruled that employing workers at wage rates below the statutory minimum wage levels was equivalent to forced labour and prohibited under Article 23 of the constitution on India even though economic compulsion might drive one to volunteer to work below the statutory minimum wage.²⁴

In addition, the government's implementation machinery does not take the interests of fish workers seriously even when there is a clear employee-employer relationship. This is because of the 'invisibility' of fish workers as they work mostly in seas or in places that are not very accessible.

P.A. Thomas And Ors. vs Authority Under The Minimum Wages 2008

²⁴ Peoples' Union for Democratic Rights v. Union of India AIR 1982 SC 1473.

The kerala high court sentenced that it is common ground between the parties that Sunday has been declared to be a day of rest and the normal working hours per day are 9 hours a day or 54 hours a week. According to Shri Dhabe the appellants' learned Counsel the words "at double the ordinary rate of wages" used in cl.(b) of Rule 25 mean double the rate of wages which are actually being paid to the employees concerned and not double the rate of wages fixed under the Act as minimum wages, whereas according to Dr. Barlingay, learned Counsel for the respondent, the Act is only concerned with providing for minimum wages and if an employee is being paid more than minimum wages so provided, the Act does not operate and the employer cannot be compelled to pay higher wages. The employees of the corporation are already being paid much higher wages than those fixed under the Act as minimum wages and, therefore, so contended Dr. Barlingay there is no legal obligation on the employer to pay higher wages. The provision requiring payment at double the ordinary rate of wages contained in Rule 25, must according to the respondent's argument, be read as "the ordinary rate of minimum wages fixed."

Chandrabhava Boarding And others vs State Of Mysore By Its Secretary, AIR 1968 Kant 156 the court held that "it is expedient to provide for fixing minimum rates of wages for certain employments", and those employments are specified in Part-I of the Schedule to the Act. From the List of industries enumerated in Part-I of the Schedule, it is seen that the Act aims at making provision for the statutory fixation of minimum rates of wages in a number of industries wherein labour is not organised and "sweated labour is more prevalent or where there is a big chance of exploitation of labour". The fixation of wages under this Act is not on the application of the employee nor is it dependent on the existing of any dispute. The Act casts on the Government the duty of fixing minimum rates of wages payable to employees in employments specified in Parts I and II of the Schedule to the Act.

Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979

The provisions of this Act can protect the interests of a large number of fish workers, who migrate from one coast to another. Again, with the lack of interest on the part of the implementing authority, the benefits of this Act have remained largely unrealized. The Act seeks to protect the employment and service conditions of fish workers.

Provisions

- 1. Separate rest rooms, properly screened toilets and washing facilities shall be provided for female migrant workmen.
- 2. Crèches must be provided in establishments where 20 or more women are ordinarily

employed as migrant workmen for three months or more.

Tradeline Enterprises Pvt. Ltd Vs State of Tamil Nadu AIR 2008 W.P.No 14035 The court held that The Migrant Workmen Act was enacted with a view to eliminate the abuses to which the workmen recruited from one State and taken for work to another State were subjected by Contractors and others who are recruiting them and the intention of the legislature was to make it applicable to every establishment in which five or more Inter-State migrant workmen are employed or were employed and it will also be applied to other contractors who employees or employed five or more Inter-State migrant workmen.

The statement of objects and reasons of the Act states that the establishment proposing to employ Inter-State migrant workmen will be required to be registered under the provisions of the Act.

• The Unorganized Workers Social Security Act 2008

When the United Progressive Alliance (UPA) Government came into power in 2004, in line with the commitment made by it in the National Common Minimum Programme, ²⁵ the National Commission for Enterprises in the Unorganised Sector (NCEUS) was set up in September 2004, under the Chairmanship of Late Dr. Aijun Sengupta. The Commission has the mandate to examine the problems of the unorganized sector and suggest measures to overcome them.

The Commission after thorough investigation on the subject and after elaborate discussions with trade unions and other stake holders found that there is a need for separate laws to protect agricultural workers and nonagricultural workers within the unorganized sector. In this regard the Commission proposed two draft Bills "Unorganised Non-agricultural Sector Workers (Conditions of Work and Livelihood Promotion) Bill, 2007" and the "Unorganised Agricultural Sector Workers (Conditions of Work and Livelihood Promotion) Bill, 2007" to cover unorganised agricultural workers and non-agricultural workers respectively.

Further, the Section 2(c) of the Act defines "unorganised sector" means an enterprise owned by individuals or self-employed workers and engaged in the production or sale of goods or providing service of any kind whatsoever, and where the enterprise employs workers, the number of such workers is less than ten. This implies that any entity which is carried on by employing ten or more workers is not 'unorganized sector' and workers employed in such an

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²⁵ Babu Ramesh, "Rethinking Social Protection for India's Working Poor in the Unorganised Sector" www.welfareacademy.org/pubs/international/policy, accessed on 21st may 2020

entity are not entitled to benefits available under this Act.

The definitions also excludes workers dependent on livelihood systems such as forest workers and fish workers, who cannot be brought within the ambit of home-based workers, self-employed workers and wage workers. The Act does not even cover unorganised cross-border temporary migrant workers, who have gone to other countries to be engaged in dirty, difficult and dangerous jobs such as construction, cleaning, domestic work, paramedical work and such other occupations in manufacture and service sectors. When on work, they contribute to the national income by their remittances. These workers are a vulnerable group exposed to violently offensive situations and require social security protection. Further, unpaid family workers and care workers (such as Anganwadi workers) are also not included under the definitional ambit of the Act. ²⁷

Kotchu Velu V. Joseph,²⁸ In this case it was held by the court that when a person is being regularly employed periodically it cannot be said that he is employed casually and hence, the employment will not be of casual nature for there is regularity in employment.

Similarly, in **Daily Rated Casual Labour V. Union of India**,²⁹ it was held that classification of employees into regular employees and casual employees for the purpose of payment of less than minimum pay is violation of articles 14 and 16 of the constitution and it is also opposed to the spirit of Article 7 of the International Covenant of Economic, social and Cultural Rights, 1966. Denial of minimum pay amounts to exploitation of labour. The court further held that the Government cannot take advantage of its dominant position and should be a model employer.

Rajan Kudumbathil Vs Union Of India W.P.(C)No.15393 OF 2009

The court give the direction to the second respondent to file an affidavit as to the shortest time required for the issuance of the smart cards to the unorganised workers under the provisions of the Unorganised Wrokers' Social Security Act, 2008. The second respondent will also indicate as to the steps taken for framing the Rules and also for constituting the State Board under the Act.

Social Security Benefits under the Act

The long title of the Act provides that the Act is passed to "provide for the social security and

²⁶ John, J. "Social Security Act: The Great Indian Tamasha on Unorganised Sector Workers," Cover Story, Labour File, Vol.6, No.6. December 2008.

²⁷ Saxena, K.B., "The Unorganised Sector Workers' Social Security Act, 2008: A Commentary" Article published in 'Social Change', Vol.39, No.2. (2009).

²⁸ 1987 II LLJ 174 (Kerala).

²⁹ 1988 1 SCC 122.

welfare of unorganized workers and for other matters connected to therewith or incidental thereto."³⁰ Further the Section 3 (1) of the Act provides that the Central and the State Government shall formulate and notify schemes from time to time covering life and disability, health and maternity benefits, old age protection and any other benefit as may be determined by the Central Government. This inter alia underscores the fact that entitlement has to wait for an opportune time.³¹

To claim social security benefits under the Act, the unorganized worker need to register himself after fulfilling certain conditions specified in the section.15 But the Act does not define the term 'social security benefits', instead provides for following social security schemes in the schedule I of the Act.

- 1. Indira Gandhi National Old Age Pension Scheme.
- 2. National Family Benefit Scheme.
- 3. Janani Suraksha Yojana.
- 4. Handloom Weavers' Comprehensive Welfare Scheme.
- 5. Handicraft Artisans' Comprehensive Welfare Scheme.
- 6. Pension to Master craft persons.
- 7. National Scheme for Welfare of Fishermen
- 8. Janshree Bima Yojana.
- 9. Aam Admi Bima Yojana.
- 10. Rashtriya Swasthya Bima Yojana.

Tamilnadu fishermen and labours engaged in fishing and other allied activities (Social security and welfare) act 2007

An Act to provide for comprehensive social security and for ensuring well being of fishermen and laborers engaged in fishing and other allied activities.

Section 3 of this act provide the following provisions to te fishermen

(1) The Government may, by notification, by means of a Scheme provide for the Scheme. registration of members subject to such conditions as may be provided therein and make provisions for the purpose of ensuring social security and welfare of the fishermen and

³⁰ The Gazette of India, Extraordinary, Part II, Section I, dated the 31st December, 2008.

³¹ Babu Pottaveettil Remesh, "Extending social protection for unorganized sector workers in India: One step forward, two steps backward?" Paper presented at 6th International Policy and Research Conference on Social Security Luxembourg

labourers engaged in fishing and other allied activities.

- (2) The relief or assistance as the case may be, to its registered members in respect of all or any of the following matters, that is to say
 - i. Accident relief for death and injury;
 - ii. Missing fisherman while fishing;
 - iii. Death while fishing or immediately thereafter not due to accident;
 - iv. Natural Death:
 - v. Funeral expenses;
 - vi. Education of children;
 - vii. Marriage;
 - viii. Delivery or miscarriage or termination of pregnancy;
 - ix. Old age Pension; shall be as specified in the Schedule.
- (3) The Government may, in consultation with the Board, by notification, add to, amend or vary all or any of the provisions of the aforesaid scheme or substitute another scheme for any scheme made by it.

This act also provides accident relief, Educational Assistance to Son and Daughter of the members, marriage assistance, delivery, old age pension in the 1st schedule.

Tamil Nadu Marine Fishing Regulation Act, 1983

An act to provide for the regulation, restriction and prohibition of fishing by fishing vessels in the sea along the whole or part of the coast line of the State. CHAPTER II of this act explains the Regulation, restriction or prohibition of fishing in the specified area

S.Harikrishnan vs The Secretary To Government, W.P.No.17171 of 2018In exercise of the powers conferred by clause (a) of Sub-section (1) of Section 5 of the Tamil Nadu Marine Fishing Regulation Act, 1983, (Tamil Nadu Act 8 of 1983) the Governor of Tamil Nadu hereby prohibits. Fishing by Pair Trawling or fishing with Purse - Seine nets by any fishing vessel/craft, whether country craft or mechanized boat, irrespective of their size, and power of the engine in the entire coastal of Tamil Nadu in the territorial waters, as a measure to conserve areas of fishery.

It is the case of the petitioner that he is a fisherman, in Cuddalore District and there are about 15,00,000 fishermen, in and around Tamil Nadu. According to him, most of the small fishermen

use country boat, and small catamaran, for fishing. In many cases big fishing vessels, are used in deep sea fishing, and boats, which are not prepared, in accordance with the rules, and regulations, are using Purse - Soine nets and by pair trawling, are used to catch the entire fishes, without allowing the small fishermen, to catch fish, and thus, the above said fishermen try to clear the entire area, without even allowing the small fishermen, in conservation of fishery.

According to the petitioner, these unauthorised boats, were purchased, illegally from Kerala.

Hence the court decided that, where any authorised Officer referred to in <u>section 15</u> has reason to believe that any fishing vessel is being or has been used in contravention of any of the provisions of this Act, or any notification issued or rule made there under or any of the conditions of the license granted under this Act he shall make a report thereof to the adjudicating Officer.

Social security for fishermen under Indian constitution

There is no specific provision for fishermen under the Indian constitution. It is the duty of the society in general and government in particular to ensure that nobody who has contributed to the growth of the nation in his good days is left alone to face the problems like sickness, accident, unemployment, disability, maternity and old age in his lean days. Under a Social Security System, these risks and eventualities can be managed through small contributions by all through a robust social security framework. Social Security means a program that requires the government to create a fund or system which can be used to make payments to people who are unable to work (and earn his livelihood) because of circumstances. Essential features of Social Security are that it is mandatory (by law), administered by government and it has provisions of rights and enforcements. According to Articles 22 and 25 of the Universal Declaration of Human Rights, access to Social Security is a basic right.³²

Ram Kumar Son Of Late Fateh Singh vs The State Of U.P.2005

In this case the UP High Court held that Article 14 and Article 19(1)(g) of the Constitution postulate a reasonable classification to ameliorate the economic condition of weaker section of society of fishermen community enumerated under Paragraph 62 (2) of Manual and also for elimination of middlemen to save the said weaker section of fishermen society from exploitation as the Directive Principles embodied the ideal of socio economic justice as assured in the preamble of the Constitution and the Courts are to adopt the principle of harmonious interpretation of Article 14 and 19(1)(g) of the Constitution so as to give effect to the

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³² Social security, ministry of labour employment, https://labour.gov.in/sites/default/files/Letter_of_Social_Security_Code_2018.pdf, accessed on 20 may 2020

Fundamental rights as well as Directive Principles of State Policy.

Union Of India And Anr vs India Fisheries (P) Ltd on 9 April, 1965 The Judgment of the Court was pursuant to a certificate of fitness granted by the High Court of Maharashtra at Bombay under Art. 133(1)(c)of the Constitution is directed against the judgment of the said High Court in a petition under Art.226 of the Constitution filed by the respondent. The India Fisheries (P) Ltd. hereinafter called the respondent was a private limited company and was directed to be wound up by an order of the Bombay High Court.

In **peoples' Union for Democratic Rights v. Union of India**,³³ it was held that taking of labour or service of any person for payment less than the prescribed minimum wages is violation of the fundamental right to such labourer while excising the scope and ambit of Article 23 of the Constitution of India. The court further held that begar is a form of forced labour, in whatever form it may manifest itself because it is violative of human dignity and contrary to basic human rights.

In **Sanjit Roy V. State of Rajasthan**,³⁴ it was held that payment of wages lower than the minimum wages to the persons employed on famine relief work is violation of Article 23 of the Constitution of India. Whenever, any labour or service is taken by the state from any person who is affected by drought and scarcity condition, the state cannot pay him less wages than the minimum wages on the ground that it is given to them to meet famine situation. Further, the court held that state cannot take advantage of their helplessness.

In Deena V. Union of India,³⁵ the Supreme Court held that labour taken from prisoners without paying proper remuneration was forced labour and violation of Article 23 of the Constitution. The prisoners are entitled to payment of reasonable wages for the work taken from them. And the court is under duty to enforce their claim.

IV. DATA ANALYSIS OF SOCIO-LEGAL PROBLEMS OF WOMEN FISHVENDORS IN CHENNAI

This part of the research has been an attempt to bring out the problems and challenges faced by women fish vendors functioning in the unorganized fish markets. The indispensable cause for vending fish by women is to support the family and improve the standard of living of the family. Women engaged in fishing sector use their income to provide food, education, health care and other basic needs to their family members thereby eradicate the situation of poverty.

³³ AIR 1982 SC 1473

³⁴ AIR 1983 SC 328

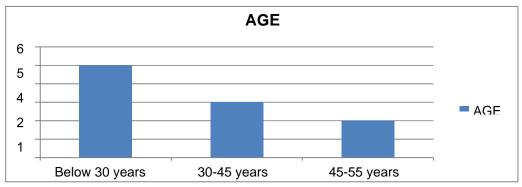
³⁵ AIR 1983 SC 1155

One of the major objectives of this study is to examine the association between the socioeconomic profile and performances and problems faced by women fish vendors in the study area.

Respondents demographic profile:

The Socioeconomic characteristics of a population such as Age, Marital status and Educational qualification are expressed statistically in the Demographic profile.

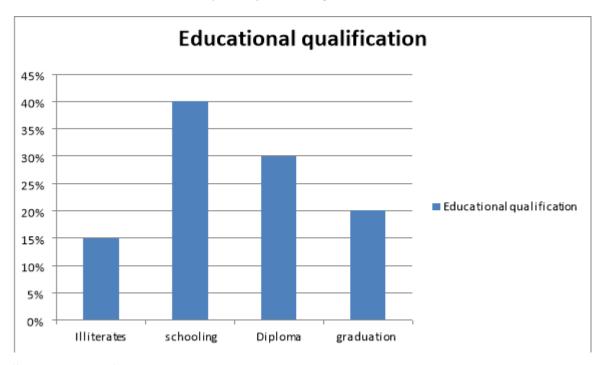
Age: Table 4.2.1



The sample consisted nearly 50% of the respondents of age group below 30 years which is mainly found as a part of the persons involved in fishing sector. 30% of the respondents fall in the category of 30 to 45 years of age. The respondents in the age group 45-55 years were found in small numbers and thus they constitute 20% of the sample size. The persons at a higher age group are found less inclined towards fishing industry.

• Educational Qualification

It was found that 15% out of 40 respondents i.e. 6 respondents were illiterates. 40% i.e. 16 out of the 40 respondents has done only their schooling. 30% i.e. 12 out of 220 respondents have completed their Diploma. 20% i.e. 8 respondents out of the 40 respondents have their under graduation completed.



Statutory benefits

• Working hours and shift system

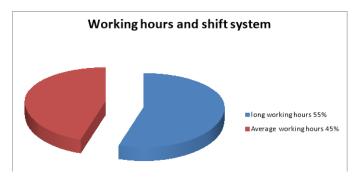


Table 4.3.1

Today Fish catchers and fishing workers have many hindrances. From the above pie chart it is evident that 55% out of the 40 respondents i.e. 25 respondents complain about long working hours and shift system. 20 respondents say that they are in a situation where they have to work for more hours and sometimes without prior information they are compelled to work for long hours. The employees have various reasons for being dissatisfied with the working time during the climate change. Some find the Health problems in the Climate changes. Women employees find shift system problematic and dissatisfied because they are not able to look after the family and children due to different shifts in unexpected timings.

Availing leave

Availing leave also seems problematic for some employees. Some employees say that in certain

unavoidable and unforeseen situations it is difficult to ask for leave suddenly without prior intimation. Others opinion that with prior intimation with proper reasons leave can be availed before board into the vessel or boat where they are engaged prior. They say that they have surplus employees to substitute the employees on leave.

Wages and other benefits like Increment and Bonus

Wages

On a survey conducted to 40 fisherwomen 80% i.e.38 out of 40 respondents said that wages are paid in full and on time to them. They have no problem in receiving their wages or salary. 20% of the respondents i.e. 12 out of the 40 respondents said that they are sometimes not paid full wages. They said that it depends on the profit gained by their employer. Some of the employees said that wages are not paid on date and it is delayed by the employer due to various reasons.



Table 4.3.2.(a)

Bonus and increments

Generally most of the fisherwomen get the job with oral agreement of wages. When it comes to Bonus and increments 65% i.e. 33 out of the 40 respondents said that they are paid with bonus by sharing the profits and proper increments are made regularly. 17 out of the 40 respondents i.e. 35% of the respondents said that they are not given bonus by the employer. Most of the bonus and increment depend upon the profit of the employer. They also said that increments are made to them rarely and some said that they are not at all paid with increment. It is found that nonpayment of increment and bonus is mainly seen among unorganized fishing sector. They are not provided with these statutory benefits.

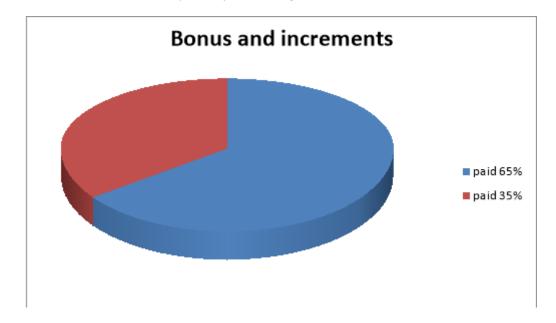


Table 4.3.2.(b)

Safety

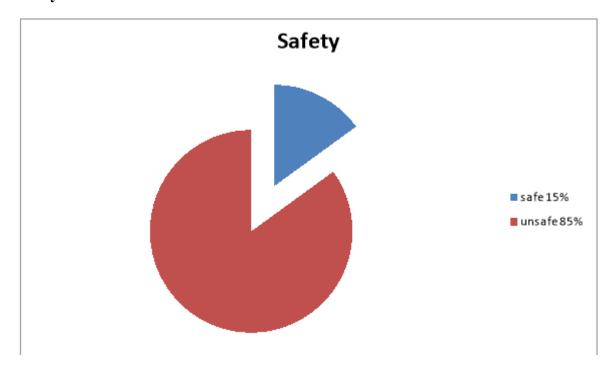


Table 4.3.2 (c)

It is found that only 15% i.e. 8 out of the 40 respondents feel their workplace safe and they said that their employer provides them with all safety measures. Women fish vendors might face many problems in market place due to the local rowdies or in some times the police. 85% i.e.. 32 out of the 40 respondents feels unsafe at their workplace due to the harassment by the male workers and others.

Women fish vendors working conditions:

Women treated diffrently

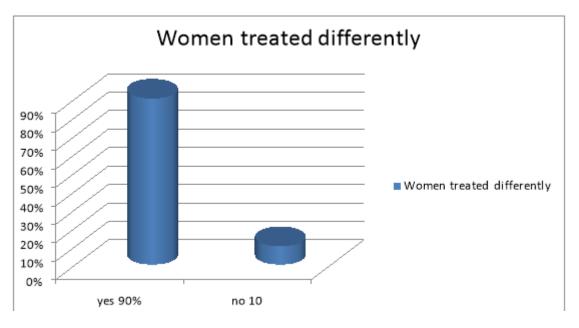


Table 4.4.1

Generally in the fishing sector 90% of the women workers are fish vendors or vessel cleaning and other works in fishing industry. When a question was put to the women workers whether they are treated differently for the reason that they are women in various criteria answers came in multiple aspects. Treating differently in the opinion of each worker is different. It is found that women are treated differently in many ways.

Some women said that they are given more instructions than to male workers. Some other women workers said that they are given more dirty work and such kind of works are never given to male workers. Others say that some women workers face harassment issues both from co- workers and customers. At last the bottom line is that women are not treated equally with men in the workplace.

Maternity leave

Fishing industry in India is an unorganized sector where all the fish selling women are dependent or independent fish sellers or fish catchers where they are not avail any maternity leave. But in some fish selling women under any fishing factory may get maternity leave. This survey Out of 40 women workers 7 workers said that women workers are given maternity leave in their fishing sector and 33 respondents out of 40 respondents said that they are not provided with maternity leave. Some workers said that even though they are given maternity leave it is not given as per the statutory provisions. They are given limited number of days as maternity

leave.

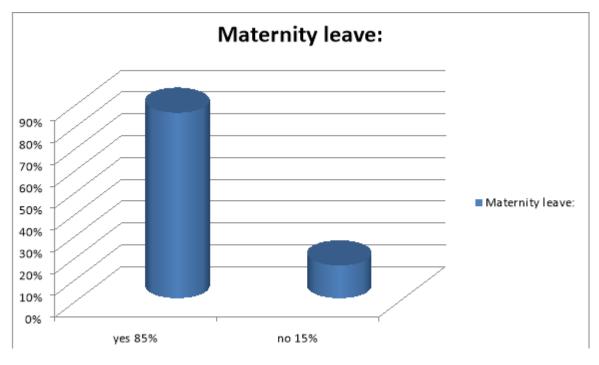


Table 4.4.2

Sexual Harassment

Out of 40 respondents 24 respondents have said that they have not encountered any kind of sexual harassment in their workplace. 16 out of the 40 women workers have said that they have faced sexual harassment in one or the other way. It is found that sexual harassment is initiated by both the employees and customers at times.

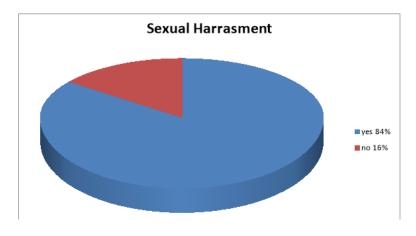


Table 4.4.3

• Health Complication

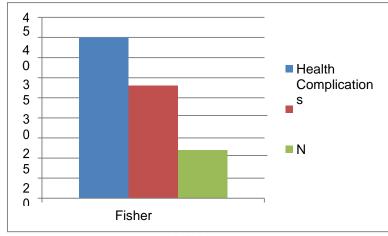
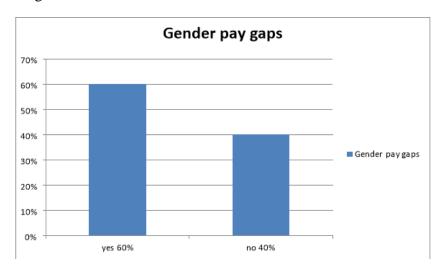


Table 4.4.4

In the Fishing sector there are various health complications which may occur to the fishermen especially to the women workers Out of 40 women workers 24workers i.e. 60% of the women workers said that they are prone to health complications like mood swings, concentration problems, back pain, joint pain and several other issues due to nature of the work in selling fish and cleaning the vessels or other works given to them. 16out of the 40 respondents i.e. 40% of the respondents said that they have no health issues.

• Gender Pay Gaps

Women in India earn 19% less than men, reflecting the high gender pay gap in the country, according to the latest Monster Salary Index. The gap has narrowed merely by 1% in 2019 from 20% a year ago. On the survey conducted out of 40 women workers 28 workers i.e. 60% of the respondents said that gender pay gaps are found in their workplace. They said that their employer show differences in paying wages/salary to men and women workers. Women workers are paid lesser than male workers as they have a presumption that male workers work harder and for long hours than female workers.



V. CONCLUSION AND SUGGESTIONS

Conclusion

The production of fish is increasing globally. It was found that the fish production from inland waters was less compared to marine waters initially. There is an increase in the share of fish capture from inland waters during the recent past. The quantities of fish capture by the developing countries are dominating compared to the developed countries in recent period, which was vice versa in the beginning of the study period. India is emerging as one among the major fish producer in the world. The contribution of fisheries in India is immeasurable as it provides livelihood for millions who are directly and indirectly engaged in fishing industry. The increasing role of women as fish vendors demonstrates the evidence for their share in economic development of the country, removal of poverty and building of educated youth from the fishing society.

Women contribute a major workforce and should be considered equal partners in growth and development of the world, but it is not so especially in developing and underdeveloped countries. Women in Agriculture (WIA), Women in Fisheries (WIF) were the offshoots of Women in Developnient (WID) focussing on the gender issues related to specific areas. Several worksops have been conducted world over emphasising the role of women and children in fisheries. The World Fisheries Conference in Rome in 1984 stressed the vital contribution that women make in fisheries directly and indirectly.³⁶

The major problems faced by women fish vendors in the study area are found to be involvement of Middlemen, Problem of Transportation Cost, High Marketing Cost, Delay in payment of sale earnings, Ignorant about market information and prevailing price, High degree of dependency on middlemen for financial support, Lack of infrastructural facilities in the market place, absence of storage facilities in the market place, Shortage of availability of procuring goodquality and variety of fish species for sales, Low level of social, economic and educational status of fish vendors an inadequacy of basic facilities such as drinking water, power supply, etc.

Suggestions

Based on the study and observations the researcher suggests that:

1. The system of direct procurement of fish by the Government may be introduced to

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³⁶ Dr.M.P.Kohli, Dr.Ms.Ratna tiwari, "Women in fisheries", Indian Society of Fisheries Professionals, 2002 edn, pg 18

avoid exploitation by middlemen

- 2. Government should develop proper marketing facilities, and should declare minimum support prices of fishes.
- 3. Fishery infrastructure via, landing centers, marketing and processing centre, fishery education, training, and technology should be developed and accelerated.
- 4. The grant of relief assistance to Marine Fishermen families during fishing ban period should be increased and continued as a permanent phenomenon.
- 5. Fishermen Free Housing Scheme should be extended to all Fishermen who live in huts or Kutcha houses.
- 6. The government should take initiatives to provide cold storage facilities and help the fish vendors to preserve their fish and fish products.
- 7. Fish vendors have to be provided with cleaning and drying facilities. Further drinking water and sanitation facilities should made available to them in their selling place.
- 8. Market related information including demand, price fluctuations and other related details should be made available to the retail women fish vendors.
