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Assessing Workplace Equity in the Unorganized Sector: Challenges and Opportunities

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ABSTRACT

The success of a workplace is intricately tied to its inclusivity and equity, crucial for unlocking the potential of its members. This article explores workplace equity in the Indian context, where workplace inclusivity encompasses various demographics. However, existing literature predominantly focuses on the organized urban sector, overlooking the complexities of the unorganized sector that employs 82.17% of India's workforce. The unorganized sector presents unique challenges, including seasonal employment, lack of regulatory oversight, and ingrained societal biases. Existing workplace equity policies designed for the organized sector prove ineffective in this context, leaving workers vulnerable to exploitation and discrimination. Government initiatives, though commendable, lack specificity for the diverse needs of this workforce. The way forward involves expanding the definition of the workplace to include the unorganized sector and fostering collaboration between government, NGOs, and the private sector. Awareness programs must target not only workers but also employers, emphasizing the importance of workplace equity. Concrete actions, like incentivized shops, mobile toilets, and CSR initiatives, are essential to address basic facilities and empower vulnerable groups. In conclusion, achieving workplace equity in the unorganized sector requires a holistic and inclusive approach, recognizing diverse identities, addressing infrastructural challenges, and involving multiple stakeholders in this complex and decentralized landscape.

Keywords: *unorganized sector, workplace equity, government initiatives, inclusivity, awareness programs.*

I. INTRODUCTION

Equity in the workplace means all employees receive the specific resources they need to succeed, according to their unique needs.² Equity recognizes that all employees have different needs, backgrounds, and circumstances and addresses the imbalance of opportunities available

¹ Author is a student at O.P. Jindal Global Law School, India.

² Brita Long, *What is Equity in the Workplace*, Insight Global (Feb. 23, 2023), <https://insightglobal.com/blog/equity-in-workplace/>.

to them.³ The opportunities, resources and treatment are tailored in a manner that cater to individual circumstances so as to enable them to contribute and innovate towards higher revenue growth.

The success of a workplace hinges on an inclusive and equitable experience.⁴ A workplace, in an Indian context, may be diverse incorporating individuals from different age groups, classes, genders, and castes. However, if a workplace fails to fulfill the requirement of equity and inclusivity, the workplace is unable to create an environment that allows the members to realize their potential. According to a McKinsey study, *Why Diversity Matters*, companies in the top quartile for gender-diverse workplaces were 15% more likely to generate above-average profitability. According to Deloitte, diverse companies enjoy 2.3 times higher cash flow per employee.⁵ When equity is addressed, workers feel more included in the working of the company. Owing to this feeling of inclusion, there is a 70% increase in experiences of fairness, respect, and value which in turn leads to an increase of 17% in team performance and a 20% increase in the decision-making quality.⁶

In a country like India, where a staggering 82.17% of the total workforce is engaged in the unorganized sector, it is crucial to shift our focus and examine workplace equity through the lens of these workers. The unorganized sector consists of all unincorporated private enterprises owned by individuals or households engaged in the sale and production of goods and services operated on a proprietary or partnership basis and with less than 10 total workers.⁷ With this, we establish one of the very important characteristics of the unorganized sector i.e., the absence of an employer-employee relationship. Consequently, it gets very difficult for the government to frame policies to define rights and responsibilities and build a social security system based on contributory efforts.⁸ The key elements of responsibility and accountability are hence absent in the sector leading to a complex situation that makes it difficult to assess and implement strategies for workplace equity.

³ Suneela Thatte, *Embracing the Power of Equity at the Workplace*, Times of India (Apr. 19, 2023), <https://timesofindia.indiatimes.com/blogs/voices/embracing-the-power-of-equity-at-the-workplace/>.

⁴ Madeline Miles, *9 Ways to Promote Equity in the Workplace (and how to lead by example)*, BetterUp (Oct. 6, 2022), <https://www.betterup.com/blog/equity-in-the-workplace>.

⁵ Thunderbird School of Global Management, *Corporate Leadership, Diversity & Inclusion*, Forbes India (July 13, 2022), <https://www.forbesindia.com/article/thunderbird/corpo-rate-leadership-diversity-inclusion/78047/1>.

⁶ Juliet Bourke & Bernadette Dillon, *The Diversity and Inclusion Revolution*, Deloitte Review https://www2.deloitte.com/content/dam/insights/us/articles/4209_Diversity-and-inclusion-revolution/DI_Diversity-and-inclusion-revolution.pdf.

⁷ K. P. Kannan & T. S. Papola, Workers in the Informal Sector: Initiatives by India's National Commission for Enterprises in the Unorganized Sector (NCEUS), INT'L LAB. REV, Vol.146 Iss 3-4, 323.

⁸ Mansi Chahar, Impact of Covid 19 on Unorganized Sector in India, INT'L J.L. MGMT. & HUMAN, Vol. 4 Iss 3, 2734.

II. MARGINALIZATION OF THE UNORGANIZED SECTOR

Existing literature around workplace equity has been largely focused on the urban organized sector. This is because the unorganized sector is not associated with a particular workplace in the same way that - for example - a bank teller in the formal sector is likely associated with a particular bank branch. Consequently, numerous workers in the unorganized sector lack a defined 'workplace' to associate with,⁹ hindering their participation in discussions related to workplace equity.

The discussion, as a result, tends to overlook the complexities of the unorganized sector, where the notion of a workplace is vastly different. This discussion needs to expand beyond the commonly acknowledged organized urban sector as the exclusive embodiment of the term "workplace" to encompass the intricacies of the unorganized sector. As per the Economic Survey, the total number of people working in the unorganized sector is around 43.99 crores during 2019-20, i.e. 82.17% of the total workforce in India.¹⁰ The present social security system of India covers less than 10% of the total workforce, which has workers from the informal sector only in the margins.¹¹ Not only workplace equity, the informal sector struggles to ensure basic human rights such as the availability of clean drinking water. Workspaces in the unorganized sector transcend the confines of an employer's four-walled buildings, extending to construction sites and streets. Despite being the primary employer of the workforce in India, the unorganized sector lacks the numerous social security benefits afforded to the educated and trained workforce in the organized sector. The workers in the sector do not receive much attention even from the trade unions.¹² Only 6 percent of informal workers are covered by some form of social security provided by the government.¹³ This absence of a safety net exposes workers to various forms of exploitation, notably including gender discrimination. While existing literature does discuss the plight of women in rural and unorganized workplaces, there is a conspicuous absence of attention to LGBT+ communities, introducing an additional layer of vulnerability. There is a correlation between workplace bullying and poor physical and mental health, including depression, low self-esteem, and suicidal thoughts. Concealment of sexual orientation or gender identity due to fear of discriminatory treatment and violence can lead to considerable

⁹ John Folkerth & Tonia Warnecke, *Informal Labour in India and Indonesia: Surmounting Organizing Barriers*, LABOUR, Capital and Society 44, 7.

¹⁰ Ministry of Labour, *Number of Workers In Unorganised Sector*, Press Information Bureau (July 24, 2023), <https://pib.gov.in/PressReleasePage.aspx?PRID=1942079>.

¹¹ Amitabh Kundu & P. C Mohanan, *EMPLOYMENT AND INEQUALITY OUTCOMES IN INDIA*, The Organization for Economic Cooperation and Development <https://www.oecd.org/employment/emp/42546020.pdf>.

¹² Chahar, *supra* note 7, at 2738.

¹³ Kannan & Papola, *supra* note 6, at 326.

anxiety and loss of productivity.¹⁴ LGBT+ persons experience homelessness and the absence of healthcare. In many contexts, they disproportionately rely on the informal sector for income.¹⁵ Neglecting these workspaces in reports, research papers, and studies limits the awareness of both academia and the general public. Furthermore, even when research is conducted for the sector, it tends to exhibit a bias towards men. This bias extends to machine designers who overlook the biological differences between genders, thereby impeding progress in achieving workplace equity. While a great deal of data for the comparative measurements of male bodies has been collated and widely used in industry, those for women have tended to be almost completely concerned with domestic equipment.¹⁶ Similar discrimination exists in terms of tool design. This oversight not only leaves room for vulnerability but also fosters a lack of awareness among the masses. They may unwittingly become not just witnesses but active participants in the exploitation of the workforce in this sector. Viewed from this perspective, the state of diversity, equity, and inclusion (DEI) in the workplace appears grim.

III. THE PRESENT LANDSCAPE OF WORKPLACE EQUITY IN THE UNORGANIZED SECTOR

The unorganized sector, marked by impermanent workspaces and a dearth of regulatory oversight, poses distinctive challenges to achieving workplace equity. A significant segment of the workforce in this sector is often uneducated and economically disadvantaged, prioritizing basic needs over safer working conditions. The lack of education and financial resources compels acceptance of potentially hazardous and exploitative workplace standards. Even collective efforts against issues like unequal wages and physical harassment may inadvertently overlook gender discrimination, perpetuating it as a societal norm.

Establishing a fair work environment proves formidable in the unorganized sector, where ensuring safe spaces, hygienic WASH facilities and accessible sanitary products for menstruators is a persistent challenge. The absence of nearby toilets leads to the unfortunate practice of defecating in secluded open spaces, particularly during dark hours, exposing workers to the risk of sexual assaults. Moreover, menstruators, vulnerable to urinary tract infections

¹⁴ The Wire Staff, *Discrimination Against LGBTQI+ Persons Has Economic Cost, Says ILO Report*, The Wire (May 26, 2022), <https://thewire.in/lgbtqia/discrimination-against-lgbtqi-persons-has-economic-cost-says-ilo-report>.

¹⁵ United Nations Independent Expert on protection against violence & discrimination based on Sexual Orientation, *THE IMPACT OF THE COVID-19 PANDEMIC ON THE HUMAN RIGHTS OF LGBT PERSONS*, The Office of the High Commissioner for Human Rights (July 28, 2020), <https://www.ohchr.org/sites/default/files/ImpactCOVID19LGBTpersons.pdf>.

¹⁶ Workplace Information Group, *Health Column: Health and the Working Woman*, Agenda: Empowering Women for Gender Equity, 1993 18, 84.

(UTIs), may avoid drinking water to circumvent frequent urination, resulting in dehydration and related health issues. Furthermore, long working hours, unhygienic conditions at the workplace, delayed payment of wages, and absence of safety equipment are widespread.¹⁷

The transient nature of their jobs coupled with the deeply ingrained societal biases related to caste, class, and gender create a power dynamic that renders workers, especially migrant and women workers, powerless.¹⁸ Existing workplace equity policies designed for the organized sector, viz. establishing employee-friendly environments, conducting diversity surveys, and offering flexible work hours, are hence of little assistance in the unorganized sector.

Government initiatives, like the Unorganized Workers' Social Security Act, of 2008, while commendable, lack specific provisions for equal remuneration and decent working conditions for women workers.¹⁹ The Maternity Benefit Act, of 1961, amended in 2017, is a key legislation that enables women to increase maternity leave, maternity leave for adoption, and surrogacy. Although the Act provides rules for establishing creche facilities, most requirements appear to be designed keeping an urban setting and populace in mind and therefore ignore workers,²⁰ especially workers that are in a nuclear family with none to take care of their children in the unorganized sector who are then forced to expose their children to hazardous workspaces.

Notably, the Draft Menstrual Hygiene Bill represents progress, but its impact on workplace equity in the unorganized sector remains uncertain. The bill's effectiveness in implementing the strategies for catering to the specific needs of menstruators and ensuring inclusivity for the LGBTQIA+ community is yet to be assessed. Government in March 2023 made Unique Disability ID (UDID) mandatory to avail benefits of government schemes for persons with disabilities.²¹ An essential element of securing UDID is the disability certificate. However, there are two main areas of difficulty in terms of accessing disability ID certificates. The first relates to the medical assessment process and the assigning of an impairment percentage and the second relates to the accessibility of the process itself.²² It was found that 85 percent of informal wage workers in rural India and 57 percent of such workers in urban India received wages below the

¹⁷ Kannan & Papola, *supra* note 6, at 325.

¹⁸ Paromita Goswami, *A Critique of the Unorganised Workers' Social Security Act*, EPW, 44 11, 17.

¹⁹ *Id.* at 17.

²⁰ Saumya Uma & Aditya Kamath, *Gamechanger or a Trojan Horse? Some Reflections on the Maternity Benefit Act, 1961*, EPW, 54 20, 63.

²¹ Press Trust of India, *From April 1, UDID Mandatory to Avail Benefits of Government Schemes for Persons with Disabilities*, The Economic Times (Mar. 16, 2023), https://economictimes.indiatimes.com/news/india/from-april-1-udid-mandatory-to-avail-benefits-of-government-schemes-for-persons-with-disabilities/articleshow/98705702.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst.

²² Lorraine Wapling et al., *Social Protection and Disability in India* 66 (UK Aid, Working Paper February 2021).

nationally recommended minimum.²³ Beyond awareness creation, therefore, there is a pressing need for concrete actions to promote workplace equity in the unorganized sector, filling the gaps left by current legislation and initiatives.

IV. WAY FORWARD

The very first step requires expanding the purview of the term “workplace” as understood and used in contemporary literature to include the workers from the unorganized sector. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 has included the workplace of an unorganized sector within its ambit and defines what workplace for such an unorganized sector means.²⁴ This is a welcome step.

The highly distributed and informal nature of the sector also means a lack of accountability and responsibility towards the workers,²⁵ and therefore the decline in the willingness of the employers to ensure workplace equity. According to the International Trade Union Confederation, India was amongst the 10 worst countries in the world in terms of worker rights in 2020. Addressing this challenge necessitates concerted efforts involving the government, NGOs, the private sector engaged in CSR activities, and the wider society.

While current awareness programs primarily target workers as beneficiaries, a crucial shift is needed to extend these initiatives to employers. A comprehensive, long-term plan should be developed to raise awareness about the significance of workplace equity within the sector. To tackle issues related to basic facilities such as clean toilets, hygienic water, and food, the government can establish incentivized shops dedicated to workers at short distances. Collaborating with E-vans services for mobile toilets and food delivery partners can further enhance these efforts. Women, particularly those of childbearing age, are thought to be more vulnerable than men to bad working conditions and certain toxic substances, and therefore in need of special protection. However, there is little or no protective clothing and equipment designed specifically for women.²⁶ Companies can contribute through CSR initiatives, providing tools, safety kits, and personalized training to empower disabled, underage and women workers. Collaboration between NGOs and the government is vital for improving infrastructure within the sector. While existing equity programs acknowledge unorganized workers as defined under the Social Security Code 2020, it's imperative to recognize and

²³ Kannan & Papola, *supra* note 6, at 325.

²⁴ THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013; §2 (p).

²⁵ Devanshi Singh, *Plight of Women Workers in the Unorganised Sector*, INT'L J.L. MGMT. & HUMAN, 4 3, 2738.

²⁶ Working Information Group, *supra* note 15, at 85.

address additional identities crucial for effective implementation. Acknowledging and understanding various identities like minority genders, menstruators, individuals facing mental health issues, and others is essential. These factors manifest specific interrelationships, which increases the vulnerabilities within the sector itself.²⁷

Most of the social security provisions available at present apply to those workers who have a clear employer-employee relationship.²⁸ However, most workers in the sector are not in an identifiable employer-employee relationship. For example, in the case of street vendors, since no employer controls their labor market transactions and space of work, we need to think of functional substitutes—may be the municipality where they work, can be a potential replacement.²⁹ Therefore, discussions on workplace equity should involve central and state governments as well as local authorities, especially panchayats and municipalities.

In conclusion, achieving workplace equity in the unorganized sector demands a holistic approach, incorporating diverse stakeholders, promoting awareness among both workers and employers, addressing infrastructural challenges, and recognizing the myriad identities that influence equity in this complex and decentralized landscape.

²⁷ Jagan Karade & Kuldeepsingh Rajput, *Social Identity, Rural Labour and Urban Unorganised Sector: An Overview of Exclusion*, *Scholarly Research Journal for Interdisciplinary Studies*, 8 2021, 1.

²⁸ Mridusmita Bordoloi et al., *Social Security for Informal Workers in India*, *Accountability India* https://accountabilityindia.in/wp-content/uploads/2021/01/Brief_SocialSecurity_InformalWorkers_8Jan2021.pdf.

²⁹ *Id.*