

Informal Sector and Environmental Emergency: The Need of the Hour

R.Swapna Ashmi* & Dr.P.R.L.Rajavenkatesan**

* Research Scholar, VIT School of Law, VIT, Chennai-600 127.

** Associate Professor & Head of the Department, VIT School of Law, VIT, Chennai-600 127.

Abstract

The majority of the population are employed in informal sector in India. It has grown rapidly as a consequence of population growth and urban rural migration. In India, majority of the population is unemployed due to poverty and lack of education. Therefore, in order to meet their daily needs, they are forced to work under informal sector. Informal employees are usually employed in undefined workplace with low income and working condition. They are small business entities that are not recognised, protected, or governed by any legislation. Although, employees working in informal sector are characterized as street merchants, they also involve in many pollution incentive activities such as leather tanning, brick kiln, tile making, metalworking etc. Controlling the pollutions caused by this sector has become difficult as they are small and numerous. They are linked to employee exposure to hazards and the risk of contracting certain occupational diseases as a result of the workplace's physical, mechanical, and biological environment. This article explores the impact of the pollutions outlet by leather tanning and brick kiln sectors on environment. It also examines the working conditions of employees in these sectors and the occupational hazards faced by the employees.

KEYWORDS: Environment, Informal Sector, Occupational Health, Safety Measures and Working Condition.

Introduction

The informal sectors are playing major role in India. The majority of employees in the informal sector face occupational health risks due to a lack of safety, health, and sanitary standards. The environment is also polluted usually by industrial, medical, human and other chemical toxic. The unorganized employees are also exposed to various hazard in the sequence of employment. Under informal sector, the brick kiln and leather tanning process are the major sectors in which pollution is caused. These pollutions have a negative impact on the health of workers in the informal economy. Progress of the industry depends upon the working condition and environment in which the employee is working. In order to protect the employees, the government has implemented many legislations. The Indian Constitution's fundamental rights and directive principles of state policy have prompted numerous provisions to protect employees. There are also many legislations to protect the employees from pollution, as working environment plays a vital role in an industry. But the inadequate implementation of those legislation and lack of awareness among the employees has resulted in depriving the rights available to workers. Since these employees are not recognized and unregistered, they also face many occupational health hazards and safeguard measure are not provided in the work place to overcome these hazards.

Law Relating to Regulation of Informal Sector

Informal employees are usually employed in an undefined workplace with low income and unhealthy working condition. The International Labour Organization (ILO) from the time of establishment has made standards to improve the working conditions of workers. These standards have greater impact in Indian legislations also. According to the ILO, the informal sector is a significant element of the economy. The Fifteenth International Conference of Labour Statisticians adopted a Resolution concerning statistics of employment in the informal sector, which stated that countries where the informal sector plays a significant role in employment, income generation, and economic and social development should aim, where possible, to develop a comprehensive system of statistics on employment in the informal sector to provide an adequate statistical base for the various indicators.¹ The International Labour Organization (ILO) and the World Health Organization (WHO) jointly adopted the definition of occupational health at their first session in 1950, and it was amended in their twelfth session in 1995.² The definition reads: "Occupational health should aim at: the promotion and maintenance of the highest degree of physical, mental and social well-being of workers in all occupations; the prevention amongst workers of departures from health caused by their working conditions; the protection of workers in their employment from risks resulting from factors adverse to health; the placing and maintenance of the worker in an occupational environment adapted to his physiological and psychological capabilities; and, to summarize, the adaptation of work to man and of each man to his job". There are certain conventions and recommendations also with this regard. According to Convention No. 139 - Occupational Cancer Convention, 1974, a member adopting this convention should establish the carcinogenic substances and agents to which occupational exposure should be restricted or subject to authorisation or control on a regular basis.³ Convention no 148 - Working Environment (Air Pollution, Noise and Vibration) Convention, 1977: National laws or regulations must define methods for the prevention, control, and protection against occupational risks in the workplace caused by air pollution, noise, and vibration.⁴ Convention no 155 - Occupational Safety and Health Convention, 1981 (No. 155) states that a coherent national policy

on occupational safety, occupational health, and the working environment should be developed, implemented, and periodically reviewed in light of national conditions and practise, and in consultation with the most representative organisations of employers and workers.⁵ Convention no 170 - Chemicals Convention, 1990 (No. 170) prescribes preventing or reducing the occurrence of chemically induced diseases and injuries at work is essential, according to the law.⁶ Article 19 of the Indian Constitution and its many subclauses guarantee, among other things, freedom of association, freedom to carry on *commerce* or business, and freedom of speech, all of which are significant to labour law.⁷ Article 21 proclaims that "no person shall be deprived of his life or personal liberty except according to procedures established by law". However, as time has passed and pressing social requirements have arisen, the courts have given the phrase a fairly liberal and broad interpretation to "Personal Liberty" or "Life". In the case of *Bandhua Mukti Morcha vs. Union of India*,⁸ it was decided that Article 21 guarantees citizens the right to live in dignity and freedom from exploitation. The government is obligated to ensure that social welfare and labour regulations are followed in order to provide workers with a life worthy of human dignity. This was reaffirmed in *Ogla Tellis vs. Bombay Municipal Corporations*,⁹ this was affirmed. A three-judge bench of the Supreme Court held in *Consumer Education & Research v. Union of India*¹⁰ that the jurisprudence of personhood or philosophy of the right to life envisaged in Article 21 of the Constitution enlarges its sweep to encompass human personality in full bloom with energised health, which is a wealth to the worker to earn his livelihood, to maintain the dignity of person, and to live a life with dignity and equality. Article 21 guarantee of "life" has a far broader meaning, including the right to livelihood, a higher quality of living, sanitary working conditions and recreational facilities, and chances to reduce sickness and physical handicap among workers. The health of the worker is an integral facet of the right to life. If it is denied to the workman, it is equal to violating Article 21. As constitution states everyone are equal under the law. Everyone should live in a safer environment and protect their health from hazards that occur. Following the Supreme Court's decision in *Maneka Gandhi vs. Union of India*, Article 21 has been liberally interpreted from time to time.¹¹ Article 21 guarantees the right to life as a basic right. It includes the right to an environment free of disease and infection. The right to a healthy environment is an important aspect of the right to live in dignity.¹² The rights to be free of exploitation are guaranteed under Articles 23 and 24. Clause (1) of Article 23 renders human trafficking and any form of forced labour illegal and serious offences. It was decided in *People's Union for Democratic Rights vs. Union of India*,¹³ that labour or services for a remuneration less than the minimum wage constitutes "forced labour." Article 47 states that boosting the quality of nutrition and standard of life of its citizens, as well as improving public health, are among the state's primary responsibilities. Public health improvement also entails environmental conservation and enhancement, without which public health cannot be guaranteed. In Republic of India, Unorganised Sector Social Security Act came into force on 2008. This legislation was implemented to ensure the social security measures and to protect the employees from several contingencies. But this Legislation does not cover the occupational hazards face by the employees from pollution. The deficiency in providing social security measure to employees and inadequate implementation of the Act has again deprived the rights available to the employees. The government has also implemented various legislation to protect the environment from pollution, including the Air (Prevention and Control of Pollution) Act of 1981, the Environmental Protection Act of 1986, the Noise Pollution (Regulation and Control) Rules of 2000, and the Water (Prevention and Control of Pollution) Act of 1974. These legislations have effectively protected the environment from degrading. Though there are many legislations protecting environment and the workers from pollution and occupational health. They are not effectively protected since they are not recognised and lack of awareness regarding the safeguard measures applicable.

Impact of Informal Sector and Environmental Emergency

The informal sector has provided employment to many people in the developing countries. It accounts for a significant portion of India's manufacturing and service industries. The presence of urban informal sector is also a reason behind the environmental degradation in developing countries. The informal sectors are often operated under an unhealthy and unscientific condition, that contributes to polluting environment. Since they are unregistered and quite tough to identify them, they cannot be protected effectively. The significant number of pollutions caused by them are very high and it cannot be left unattended. Leather tanning is the process of converting skin or skins into a stable material called leather. Leather is used to make shoes, furniture, and bags, among other things. More chemical reactions and mechanical procedures are involved in this tanning process.¹⁴ More chemicals, such as chromium, acid solvents, and other chemicals are used in the process, which results in effluent of 30L/kg of processed skin, with tanneries in India generating effluent of more than 50,000 mg/day and a large number of organic pollutants.¹⁵ Tanning in chrome is the process involved in tanning leather. This process includes Chromium (III) sulphate¹⁶. Although the Chrome used as an effective and efficient agent in the tanning process. It has greater impact on the human health and environment.¹⁷ Workers who are exposed to hexavalent chromium for an extended period of time are at a significant risk of developing cancer. Hexavalent iodine can harm the respiratory tract and induce nose cancer if exposed repeatedly.¹⁸ Dizziness, development issues, reproductive disorders, discolouration, and tooth erosion are some of the other side effects of chromium.¹⁹ This process is also immensely affecting the environment. The leather sector is also regarded as one of the most polluting, producing large amounts of solid and liquid waste.

In informal sector other process which involves in polluting the environment and affects the health of workers are brick kiln. This is one of the oldest sectors which consumes more man power. his industry's pollution has a negative impact on human health, vegetation, animals, and other materials. Large-scale burning of fuels such as coal, oil, and gas causes air pollution in the brick kiln process. This procedure provides energy to industry and households.²⁰ Carbon dioxide is generally known to constitute global warming, whereas brick kiln is a major source of CO₂. The process used in brick kiln emits SO₂, CO, CO₂, NO_x and PM which causes air pollution.²¹ This process affects the environment and human at large. The workers working in this sector. When people breathe in hazardous chemicals and tiny particulate matter released by kilns, they develop cardiovascular, nervous system, and respiratory disorders.²² The common environmental problem is the deposition of various materials and gases in the atmosphere. Deposition or atmospheric deposition is mostly caused by brick kiln emissions such as particulate matter, carbon dioxide, sulphur dioxide, and other particles or gases, along with other causes.²³ The pollutions caused by this sector does not affect the environment

alone, it has great effect on the human, animals and land also. Therefore, efforts should be made immediately to stop pollution. As organised workers are protected from occupational hazards, the informal workers should also be giving safety measure and remedies from the occupational hazards.

Contemporary Issues of Informal Sector and Environmental Emergency

In informal sectors the industries use many chemicals and other substance. The chemicals used in these industries causes high pollution that affects the environment and human health at large. The employer should implement adequate legislative measure to safeguard the environment and protect the employees from occupational hazards. In organized sector the employer becomes liable if he fails to implement the legislations effectively. But in informal sector there is always a gap between employer and employees. The court has observed in many circumstance that the environment should be protected effectively. The court held in *Subhash Kumar v. State of Bihar*²⁴ that the right to life includes the right to clean air and water. A person has the right to petition the Supreme Court under Article 32 of the Constitution if something endangers or damages the quality of life in violation of the law. In *Virender Gaur v state of Haryana*,²⁵ the court expanded on this theme, stating that Article 21 safeguards the right to life as a basic right. Protection and preservation of the environment, ecological balance free of pollution of air and water, and sanitation are all part of the enjoyment of life (including the right to live) with human dignity, without which life cannot be enjoyed. Any illegal conduct or actions would pollute the environment. Environmental, ecological, air, and water pollution, among other things, should be considered a violation of Article 21. As a result, a sanitary environment is an essential component of the right to a healthy existence, and living with human dignity would be impossible without a humane and healthy environment. The State Government and municipalities have a constitutional obligation to not only secure and defend a healthy environment, but also to take appropriate actions to promote, protect, and improve both the man-made and natural environments.

The scope of right to live has been enlarged in *MC Mehta case* It was decided that the state has the authority to ban hazardous industrial operations in order to protect the people's right to live in a healthy environment.²⁶ In the same case, the court debated the amount of compensation that should be paid to plaintiffs who were harmed by the factory's oleum gas leak. The Court decided that it may hear a petition under Article 32 of the Constitution and set forth the grounds for calculating and paying compensation.²⁷ Also, the tanning factories on the Ganga's banks were said to be polluting the river in the *M C Mehta case*. They were given six months from the date of the order to put up effluent plants by the Court. Failure to do so would result in the firm being closed down.²⁸ In recent years, the Supreme Court has broadened the right to life. The Court stated in *Consumer Education and Research Centre v. Union of India*,²⁹ that social security, reasonable and humane working and leisure conditions for workers are all part of their genuine right to life. In addition, the Court determined that this fundamental entitlement to health and medical assistance should remain after retirement. Significantly, the court stated that appropriate directions could be issued to the state or private employer in appropriate cases with the goal of protecting the environment, preventing pollution in the workplace, safeguarding the health of workers, or preserving free and unpolluted water for the people's safety and health. The asbestos industry has been given instructions, and the union and state governments have been tasked with filling in the holes in the law's interpretation. As a result, India's jurisprudence on occupational dangers and industrial accidents is growing slowly but steadily. The environmental changes are unavoidable consequence of the industrial development. The Environment Pollution in *Ratlam* afflicted a huge community of impoverished people and stemmed from a combination of diffuse causes: private polluters, slack and underfunded enforcement agencies, and haphazard urban design, according to the case of *Ratlam Municipality v. Shri Vardhichand*,³⁰ According to Article 21, which states that human rights must be protected, the right to a pollution-free environment is an inherent aspect of the right to life. The court was dealing with the enormous harm caused by untreated effluent released by tanneries in Tamil Nadu in *Vellore Citizens Welfare Forum v Union of India*,³¹ "The essential goal of the Act is to form an authority or authorities under section 3(3) of the Act with necessary powers to control pollution and protect the environment," the court said of section 3(3) of the EPA. It is unfortunate that the Central Government has not yet established any authority. This court, along with other courts across the country, is carrying out the work that the authority is required to conduct under section 3(3) of the Act, as well as other provisions of the Act. It is high time that the Central Government realizes its responsibility and statutory duty to protect the degrading environment in the country".³² The law of torts is one of the general remedies available to protect informal workers from pollution, occupational dangers, and accidents arising out of and in the course of employment. This is the oldest law which give remedies to employees. The remedies are exercised mostly when the fundamental rights of a person will be violated. Though employees are provided remedies under other legislations, the informal sector employees are not protected effectively as compared to the organised workers. The organised employees get remedies under social security legislations effectively. The informal sector employees should also be protected effectively under legislations.

Conclusion

The informal economy's expansion, particularly in emerging nations, means that employees' income security and vulnerability are increasing. Though the informal sector is small, it contributes significantly to pollution in the environment, particularly in the leather and brick kiln industries. Because workers in the informal sector do not have access to any organised occupational health service, they are more likely to ignore or delay seeking medical attention if they develop a sickness or impairment as a result of their work. The informal sector has a number of issues that expose individuals to a variety of occupational health risks. As a result, the following recommendations are made:

- 1) Although the unorganised sector social security employees Act, 2008 protects informal sector workers, the social security measures that apply to them are ineffective since the legislation is unclear regarding its applicability and there is no employer-employee relationship. The government must improve the legislation's applicability and effectiveness.

- 2) Employees must be classified as organised. Instead of working on a seasonal basis, they should be asked to labour all year.
- 3) In comparison to organised workers, employees are not given with safety measures since they are unaware of industrial threats such as cancer, respiratory tract, and nasal cancer. Dizziness, development issues, reproductive disorders, discolouration, and tooth erosion are some of the other side effects of chromium. As prevention is always preferable to treatment, both the government and the employer should take the necessary precautions to safeguard personnel.
- 4) The informal sector has negative environmental consequences. The pollution produced by informal labour pollutes the air, water, and land. Despite the fact that industrial pollution is covered by legislation. Because it is unregistered and employs a small number of people, the informal sector is not considered organised. As a result, the informal sector must be acknowledged, and the government must take the appropriate steps to detect the pollution generated by employment.
- 5) Employee awareness programmes should be conducted by both the employer and the government. They should be informed of the potential implications of working in the informal sector and the precautions they should take to avoid them.

References

- ¹ http://ilo.org/wcmsp5/groups/public/---dgreports/-stat/documents/normativeinstrument/wcms_087484.pdf
- ² Bagmita Bhagawati “Basics of Occupational Safety and Health” IOSR-JESTFT 91-94(2015)
- ³ https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312284
- ⁴ https://www.ilo.org/dyn/normlex/en/f?p=1000:12100::NO:12100:P12100_INSTRUMENT_ID:312293
- ⁵ https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C155
- ⁶ https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C170
- ⁷ Dr. J.N. Pandey, The Constitutional Law of India, 20 (2012)
- ⁸ (1997) 10 SCC 549
- ⁹ 1986 AIR 180
- ¹⁰ (1995) 3 SCC 42: 1995 SCC (L&S) 604.
- ¹¹ AIR 1978 SC 597.
- ¹² <https://pib.gov.in/newsite/printrelease.aspx?relid=105411>
- ¹³ 1982 AIR 1473, 1983 SCR (1) 456
- ¹⁴ A.S. Lawal, and C.P. Odums, Tanning of Different Animal Skins/Hides and Study of Their Properties for Textile Application. British Journal of Applied Science & Technology, 5(6), 2015, 588.
- ¹⁵ V. Tare, S. Gupta, and P. Bose, Case Studies on Biological Treatment of Tannery Effluents in India, Journal of the Air & Waste Management Association, 53(8), 2003, 976-982.
- ¹⁶ J.A. Wilson, The Chemistry of Leather Manufacture. The Chemical Catalog Company, Inc. New York 1923.
- ¹⁷ J.M. Morera, Bartoli, R. Chico, C. Sole, and L.F. Cabeza. Minimization of the environmental impact of chrome tanning: a new process reusing the tanning floats. Journal of Cleaner Production, 19(17), 2011, pp 2128-213.
- ¹⁸ N. Graham, Guidelines for Drinking-Water Quality, Addendum to Volume 1– Recommendations, World Health Organisation, Geneva, 1998, 1-36.
- ¹⁹ N. Graham, Guidelines for Drinking-Water Quality, Addendum to Volume 1– Recommendations, World Health Organisation, Geneva, 1998, 1-36.
- ²⁰ <https://businessimpactenvironment.wordpress.com/2011/10/03/environmental-pollution-from-brick-making-operations-and-their-effect-on-workers/>
- ²¹ Saha, Arpita. (2009). The concept of social security: Health, Safety and welfare Measures in a factory. The Indian Society of Labour Economics, 51st Annual Conference, Organised by – Punjabi University, Patiala (Punjab), New Delhi-2. 11-13 December. PP. 221-222.
- ²² Bond T C, Streets D G, Yarber K F, Nelson S M, Woo J-H, Klimont Z (2004) A technology based global inventory of black carbon and organic carbon emissions from combustion. Journal of Geophysical Research; 109 (D14203); 43 pp (2004)
- ²³ Davar, R.S. (1995). Personnel Management and Industrial Relations (20th Revised Ed). New Delhi: Vikas Publishing House Pvt. Ltd. PP. 253-254.
- ²⁴ AIR1991 SC420,424
- ²⁵ 1995 (2) SCC 577
- ²⁶ 1987 AIR 1086, 1987 SCR (1) 819
- ²⁷ <https://lawcirca.com/mc-mehta-and-union-of-india-1986-case-analysis-oleum-gas-leak-case/>
- ²⁸ 1996 Supp(10) SCR 383
- ²⁹ AIR -1995; SC; 922
- ³⁰ AIR 1980 SC 1622
- ³¹ AIR 1996 SC 2715.
- ³² AIR 1996 SC 2724.