

Legal Empowerment and the informal economy

SEWA Experience



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Presented by:-



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Introduction

India is rapidly developing, and equally increasing is the informal economy of the country.

Looking to the statistics of informal economy within country last 20 years has witnessed great changes in the economy. In year 1981 it was 82%, which increased up to 90% in 1990 and further, increased by 93% in 2000

Current Scenario of the informal economy in India:

- ◆ 93% of workers in India are in informal economy
- ◆ 60 % of women workers are in informal economy
- ◆ 99.2% of all those working in agriculture are in the informal economy
- ◆ 75% of all the workers in the manufacturing are in informal economy
- ◆ 78% of workers in building and construction are in the unorganized sector
- ◆ 98% of workers in Trade and Commerce are in informal economy workers

Contributions of the informal economy:

- ◆ 92% of the labor force
- ◆ 62% of the Gross Domestic Product
- ◆ 50% of the Total Savings of the country
- ◆ 39% of the Exports of the country

And these numbers are growing all over the world. Yet the law to protect the right of this workers informal economy is minimal or non-existent. Why? Because these workers have been invisible for too long. Because Government and Policy Makers cannot see them. Because the census does not count them. Because they are poor and illiterate. Because they are unorganized.

About SEWA

SEWA since last 34 years is organizing the women workers of the informal economy. SEWA organizes women workers into four different categories i.e.Vendors, Service and labor providers, Home based workers and Small Producers

Today SEWA has organized 11,23,452 members from the 11 states of India.

Issues of Informal Sector

The unorganized workers are the vast majority of the work force and include domestic workers, agricultural workers, share-croppers, marginal farmers, construction workers, street vendors, hamals, waste pickers and many more. The existing laws do not apply to them. Why is this? First, because the Acts as they exist today only apply to those workers who have a clear employer-employee relationship and these are less than 10% of all workers. Second, workers are not organized and hence have no bargaining power; even when laws exist, workers are too weak and too disorganized to demand them. Fourth, the laws are supposed to be implemented through the government bureaucracy which has neither the human resources nor the know how to reach the scattered crores of workers.

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The main issues faced by the informal workers are

1. Lack of Visibility and Recognition
2. No statistical information
3. Protection under law.
4. Lack of Employer-employee relations
5. Lesser Wages
6. No bargaining power
7. Working Conditions
8. Health Hazards
9. Lack of Social Security
10. Lack of Credit facilities
11. Lack of Proper Marketing Facilities.
12. Lack of Proper Educational and Vocational Training Facilities

Interventions of SEWA for legal empowerment of the informal workers

Since our members are legally illiterate they were unaware how to solve their issues or problems and when they approached SEWA it is too late. SEWA also faced lot of difficulties in solving this issues and problems, as there is hardly any legislation for informal economy women workers. Even if there are any laws concerning informal economy workers they are not effectively implemented. For one problem or issue SEWA had to approach many authorities. This led to delay in justice and it was very cumbersome. But this struggle made us consider that we should have a legal cell of our own that will mainly deal with the legal rights of informal economy women workers and also most of the Campaigns involved legal issues or are to be dealt with the State or Union Level Government officials.

Here are some of the examples SEWA successfully solved:

Urban Informal Economy Welfare Board:

The Labour and Employment department, Government of Gujarat, works for only this 7% of the workforce i.e. formal sector. The 93% which represents the informal sector are not considered by the Labour and Employment Department. It is difficult for this 93% work force to prove their identity as the workers and therefore they do not get protection under any law.

To change this situation, SEWA lobbied and advocated the issues of the informal sector with the State Labour Department to form the informal sector cell which will handle the issues of the informal sector. As a result the informal sector cell was formed. SEWA therefore lobbied with the Government to form one mother board and include informal trades phase wise. Thus, Urban Informal Economy workers Welfare Board under Informal sector cell was formed.

SEWA held the extensive meetings with Labour department and included Agarbatti, Paper Pickers, Vendors and Brass in the informal economy welfare boards in the first phase. SEWA and the officials of the Labor department sat together to design the form, which evidence should be taken in the manner which will be easy for the workers of the informal sector and the identity cards. In the second phase Ready made garment stitchers,

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Kite makers, cleaning and kitchen workers are included. Secondly as the workers lacked the evidence that they are workers after lot of negotiations the Government agreed that if SEWA certified the worker as worker they would register the worker with the board.

Accordingly, in the initial stage members will get Identity cards, Medical benefit, Tools and equipment, Skill training. Identity card is the most important as it not only gives the identity to workers but also Government comes to know about the trades of the informal economy and the number of the workers engaged in such informal trades. The welfare board was a huge success.

Today SEWA has registered 19000 workers in the welfare board, 14529 got the identity card and 1050 workers were benefited by various welfare schemes worth Rs. 3,53,733/-

Recognizing Vendors right to carry on livelihood:

Street vending as a profession has been in existence in India since time immemorial. The role played by Street Vendors in the economy needs to given due credit instead they are seen as obstruction, nuisance, and unlawful entities and are subjected to continuous harassment by Police and Civic Authorities. They are not protected by law and in rapidly moving economy vendors though self earners are seen as trouble. This is because they are governed by the laws made during the British rule which does not consider the vendors.

SEWA has struggled a lot to provide vendors their rightful status in the society. The struggle started from filing a case in Supreme Court of India where SEWA obtained a landmark judgement in favour of its vendor members to forming a National Policy for Street Vendors at Central Level. But still Vendors are considered as illegal entities and encroachers and the struggle continues. SEWA filed a PIL (Public Interest Litigation) in the High Court of Gujarat on behalf of its members, for implementation of the National Policy for Urban Street vendors in Ahmedabad.

The Judge Passed the following order in the PIL. In the judgment stress was laid on the negotiation between Municipal Corporation and SEWA to solve vendors issue and till then none of the vendors should be disturbed. The Judgment was unprecedented in that it was a blanket stay order-it applied to all the areas. But sadly this judgment was not taken in the true spirit by Municipal and police authorities. On one hand the vendors were evicted in all the areas and on other hand negotiations were held with SEWA by junior Municipal authorities who had no power to take the decision. So the plans and representations made by SEWA were not decided upon.

SEWA again took up the matter in the Hearing in the Hon'ble High Court of Gujarat. The Hon'ble Judges again passed the order in favor of vendors stating that the Municipal Authorities should frame the scheme in favor of vendors in consultation with SEWA and place the same before the standing committee.

SEWA thereafter prepared the scheme based on the National policy for the street vendors and place it before the Municipal Commissioner. The scheme contained the provisions for the registration of the vendors and for regularization of the vendors and for forming

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the city street vending committee. The Municipal corporation then prepared the scheme on the draft scheme submitted by us and placed it before the standing committee. The Standing committee currently has sent the scheme to the legal department of the State as registration of vendors requires changes in the BPMC Act. Thus even after the long legal battle and enactment of the National Policy for street vendors there is no change in the legal status of street Vendors

Regarding access to land for the poor

When policies are controlled e.g. when Land Ceiling Act or Town planning schemes is enforced, some amount of land does go to the poor for housing. Actually, the Act has very limited and not many benefits. It is encouraging that when land laws are liberated, we see that in 3 months time a private company can get land in SEZ or in a month's time a business house can get port/harbor, and in 3 days time a company can get an auto factory plan cleared! However, even in these liberalized circumstances, to get land to house the poor takes years, if at all. Yes, one may be able to buy 500 sq. yd, or 200 sq. yd in the city but 20 sq. yd. plot is almost impossible for a family for a roof and a toilet. Even the most liberalized land policy keeps poor away from access to land.

Let me give you one example of the case where SEWA fights to protect the right of its members regarding the land. In 1997 some of the old clothes vendors approached SEWA crying that their houses are being demolished please save our houses. I remember it was a night time and all the courts were closed we approached the Chief Justice at his home. The Judge in 1997 gave the stay order and the *sou moto* case was filed against the Ahmedabad Urban Land Development Authority (AUDA). Thereafter the case came up for hearing many times but as the land in question is on the prime location, so AUDA raised the contention that we are unauthorized occupants and out sympathy for us poor, the Auda kept on showing other plots admeasuring only 25 sq.mts. Our members were the old clothes vendors who needs place to process the old clothes like washing them, drying them, ironing them and storing the old clothes and utensils. Also as our members were authorized occupants and in possession of 33.3 sq mts to 100 sq.mts of land refused to accept Auda offer of 25 Sq mts land. Actually if Auda wants to vacate us they have to provide us another land according to the Town Planning scheme. But the other land in question is also of value and AUDA does not want to give it to us poor and neither wants to regularize us at our current residence. They want to get rid of us by providing us the 25 sq mts flats in a far off area. The case came up for hearing in last month. Both the parties made the arguments.

Surprisingly the Judge after hearing the arguments of both the parties noted the same and left the issue to be resolved by AUDA in accordance with law.

So even after 10 yrs of legal battle the fight for land still continues. We have to approach the lower court for so that we, the poor gets possession of land of which we are authorized owners. Furthermore the legal battles are very costly and the poor have to set aside the money for the legalities from the meager income. It is very difficult in this economic melt down.

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Organizations of the Poor:

To achieve the goals of full employment and self reliance, SEWA has adopted the strategy of struggle and development. On one hand SEWA organizes these women workers and on second hand SEWA initiates the cooperative so the workers becomes the owners and can earn their livelihood in a dignified way.

To uplift these workers it is necessary the Government policies should focus more to empower the organizations of the poor like cooperatives and make the livelihood available through the cooperatives. But the Acts of the Government makes it impossible for the women cooperatives to get the work and be economic impendent. In fact is so happens that Cooperative has to fulfill so many legalities that the essence of the cooperative no longer survives.

Let me share a example with you:

Waste recycles are the most down trodden, invisible, faceless and poorest and poor of the informal economy workers. SEWA promoted cooperative to uplift these workers so that they can get dignified work and their living standard is improved. The idea was that these waste recyclers get organized and form their own cooperative where they can become owners and be a part of mainstream economy. This cooperative then obtains the cleaning work in different institutions and door to door collection work and earns their livelihood with out any middle men.

In order to get the work the cooperatives now and then have to fulfill many provisions under Act like provident fund act minimum wages act which are in contradiction to the principles of the cooperative. According to the principle of the cooperative there is no employer-employee relationship. The share holders of the cooperative divide the profit amongst themselves.

This cooperative then obtained the cleaning work in Employees State Insurance Cooperative Hospital in 2006. The officials of the ESIC Hospital were satisfied by the work of the co-operative and time and again appreciated their work.

An advertisement was issued for renewing the cleaning work and in response to it we submitted our tender. Currently the workers are earning only Rs 30/- per day. Our strategy was to provide them double income per day and filled the tender accordingly. Our tender, was rejected initially without giving any reason and latter implied that we do not treat our members as employees and forcing us to convert a cooperative into a labour contractor and impose labour laws on our members.

Social Security Act for the unorganized sector:

In recognition of the contribution of the unorganized sector and of their vulnerable conditions the Government of India set up the Second National Commission for Labour

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to draft an Umbrella Legislation for the unorganized sector. The National Commission prepared a draft bill for the unorganized sector which was submitted to the Government in 2002. This Bill was discussed on many platforms where many suggestions were given by trade unions, employers and experts and a Bill on Social Security for the Unorganized Sector was drafted in 2003. Unfortunately, the Government never introduced the Bill in Parliament. The UPA Government came to power in May 2004. One of its mandates in the Common Minimum Programme was to provide social security for unorganized workers. Various drafts were prepared. The Ministry of Labour itself made a Bill. This Bill went to a Group of Ministers headed by the Finance Minister. Labor department and the Finance department were against this Act because one hand the Government did not have the machinery and secondly it required lot of finance. SEWA lobbied quite hard for the enactment of this Act. A “Dharna” of 5000 workers was led by SEWA and other organizations for this. Eminent persons also participated in this “dharna”. And at last the bill was passed in the parliament. SEWA always believed that this Act should be holistic and enabling and should be implemented by the workers or their organizations

Recommendations

- 1. Law and policies for the informal economy should be made and implemented in the participatory process in the consultation with the worker and their organization.**
- 2. Legal and awareness trainings should be conducted in the easy and local language in the workers areas so that the workers understand their legal rights**
- 3. Best practices for the legal empowerment of the informal economy should be identified and shared on the regular basis.**
- 4. A team of the Para legal from the workers group should be identified intensive trained so the issues and problem of the informal economy are solved at the origin.**
- 5. To bring changes in the existing laws and policies according to the needs and characteristics of the informal sector extensive lobbying and advocacy should be done with the stake holders at all the levels**
- 6. Research and collection of Statistics should ne done at the regular level to bring changes in the existing laws and policies according to the needs and characteristics of the informal sector**