

Employer Liability in Global Value Chains for Sub-contracted Workers: Lesson from India

WIEGO 20th Anniversary Research
Conference

Kamala Sankaran

U. of Delhi/Tamil Nadu National Law School

Questions

- What in your view would be the best approach(es) to holding 'employers' liable for labour rights (including collective bargaining) for homeworkers without risking factories banning homework and driving it underground?
- One model of employer liability for social protection is the Indian model you discuss in a WIEGO Legal brief, which involves a sector-based 'cess' that is paid by all employers in the industry. Could you explain the model, whether it includes domestic and foreign companies and how it is implemented. Do you think it this model is replicable to other sectors and countries?

Can to liability be fixed outside the formal employer-employee contract

- Social security funding
- Employer liability
- Extended liability - Taxes on specific sections
- Social assistance funded by general taxation
- General citizenship rights

The Case of Manufacture

- Device of 'cess' on manufacturers/industry
- Financing of weaker benefits for those outside formal social security benefits or in addition to these.
- Manufacturers covered – salt, beedi, non ferrous mines
 - The Mica Mines Labour Welfare Fund Act (1946),
 - The Limestone and Dolomite Mines Labour Welfare Fund Act (1972),
 - The Iron Ore, Manganese Ore and Chrome Ore Mines Labour Welfare Fund Act (1976),
 - The *Beedi* Workers Welfare Fund Act (1976), and
 - The Cine Workers Welfare Fund Act (1981).

Cess levied and Benefits offered

- 4.5 per cent *ad valorem* on the export of mica
- One rupee per metric tonne of limestone and dolomite
- One rupee for one, four and six per tonne, respectively for iron ore, manganese ore and chrome ore.
- These schemes provide for medical assistance of Rs.150/- for the purchase of spectacles, reservation of beds in tuberculosis (T.B.) hospitals, treatment and subsistence allowance not exceeding Rs.750/- p.m. in case of tuberculosis, and reimbursement of expenditure up to Rs.10 lakh for heart disease and kidney transplant.
- Annual expenditure under these funds is around Rs. 100 crore.
- Schemes presently cover more than 400,000 workers and their families.

The Case of Traders

- Kerala Fishermen's Welfare Fund Act, 1985
- Levy on dealers. Includes exporters and any purchaser/seller, commercial agreements
- Rejected as the dealers are the purchasers and the beneficiaries the catchers and sellers of fish. *“Such a nexus, in our view, is not sufficient to burden a purchaser/exporter with the impost or levy ..”*

The Case of Consumers

- Legal Benefit Fund under the Kerala Court Fees and Suits Valuation Act, 1959 for advocates
- Levy on all litigants
- *“providing social security to the legal profession becomes an essential part of any legal system which has to be effective, efficient and robust to enable it to provide necessary service to the consumers of justice.”*

Conclusion

- Moving beyond the employer-employee link
- Efficiency
 - Case of salt
 - Recent GST roll out
- Scalability
- Applicability to supply chains