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## Essential Work, Dispensable Workers

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*Workers on the frontline of community health schemes are by design in an ambivalent position: performing essential government work but recognised only as volunteers and kept out of the protection of labour laws.*

In January, Anganwadi workers in Andhra Pradesh ended a 42-day-long [strike](#) after a long-drawn ordeal of mass arrests, intimidation, and terminations. It was not the first such action by such volunteer workers in governmental community-based schemes. Bihar, Maharashtra, Delhi, Haryana and Uttar Pradesh have had Anganwadi workers, Accredited Social Health Activists (ASHAs), National Health Mission (NHM) Health Workers, and Shiksha Mitras, on strike during the last two years.

What also bound together these various strikes was a rehearsed pattern of quashing them by invoking the Essential Services Maintenance Act 1981; in effect, deeming the volunteers' jobs as 'essential'.

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Therein lies a story: for more than a decade, governments have resisted workers' demands that the critical nature of their work entitles them to be recognised as government employees. Even as they are officially recognised as a link between the state and communities, the state continues to see them as voluntary workers, unprotected by labour laws.

The ambiguity in designating such workers is by design, the roots of which lie in the conception of welfare schemes itself. Most welfare schemes are in the form of executive orders and lack a statutory framework. The state's imperative is flexible service delivery, and workers are but a means to that end. The work is essential; the worker, voluntary and dispensable.

### Employees who aren't

Anganwadi and ASHA workers — exclusively women — shoulder frontline community care responsibilities. Recruited under Integrated Child Development Services (ICDS) and the National Health Mission (NHM) respectively, they perform a range of duties including, but not limited to, maternal and child health monitoring, health referrals, vaccination, early childhood education, depot holding, community mobilisation, and gathering household level data for the state. Several community welfare schemes are routed through them. All of the workers are employed directly by the government and paid honorariums. A majority of them are listed as 'volunteers'.

Whether the state recognises these workers as government employees, or even as workers, is closely tied to whether an employer-employee relationship is established between the two. Statutes on worker rights in India have been invoked in contradictory manners to allow the state to interpret them against the interests of workers. Since Anganwadi workers and ASHA volunteers are not recognised as 'workmen' under labour laws, they [do not come under](#) the Minimum Wages Act 1948 or the Industrial Disputes Act. ASHA workers are recruited on contracts lasting less than a year, creating an additional barrier to their recognition as workmen under these acts.

In 1996, Ameenabi Kausar, representing Anganwadi workers, approached the Karnataka Administrative Tribunal for them to be recognised as state government employees. The tribunal ruled in their favour, finding that these workers were under the control and supervision of state authorities, who decided the manner in which they worked. It found that the structure of appointments, terminations, nature of duties, and salary, all constituted a 'master-servant relationship' (Sreerekha 2017). (A [clerical error](#) recorded Ameenabi's name incorrectly as Ameerbi, which is how the case is now indexed.)

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This was the first official acknowledgement of Anganwadi workers as employees of the state. However, in 2006 the [Supreme Court](#) [reversed](#) the tribunal order. It [found](#) that Anganwadi workers "do not carry any function of the state" and were "volunteers from the

community who merely act as a conduit to implementation of some welfare schemes." It also held that since the workers did not hold a civil or statutory post, the Karnataka tribunal did not have the authority to entertain the application by Ameenabi. This ruling was later invoked in multiple cases to deny Anganwadi volunteers workers' entitlements.

It is important to note here that the bases for considering a position of employment as a civil post are rather ambiguous. Broadly, the relationship of 'master and servant' is understood to exist between the state and the holder of a civil post if the state has a right to appoint the holder of the post, suspend or dismiss them, control the manner of doing the work and secure the payment of wages or remuneration. In this case, we see a circular argument: the relationship of employer-employee is contingent on holding a civil post, and the holding of a civil post is qualified through the establishment of an employer-employee relationship.

A 2022 [judgement](#) of the Supreme Court has put out some hope. Amongst other things, the court found that Anganwadi centres were an "establishment" as per the Contract Labour Act and that "honorarium" is an alternate nomenclature for "wages". The court ruled that Anganwadi workers were entitled to gratuity.

This judgement is a progressive move in that it reads their work with other statutory obligations of the government including the Food Security Act 2013 and the Right to Education Act 2009. While it has effectively reversed the 2006 judgement, its effects on everyday working conditions are yet to be seen. Anganwadi workers await the payment of gratuities. ASHA workers, on the other hand, await a similar recognition of their work.

### On the ground

The Supreme Court's 2006 assertion of scheme work's voluntary nature is contradicted by ground reality. Recruitment initially happened through word of mouth from within the community, but over time state agencies have advertised and interviewed for these jobs. Government documents (like this from [Telangana](#), for instance) list out selection criteria, terms of service, disciplinary provisions, and so on. With the changing nature of work, especially with the introduction of digital technologies, the skills required for scheme work are also evolving. Increasingly, workers with greater educational qualifications are considered for the positions.

The many contradictions and inconsistencies in defining scheme work have everyday implications for lakhs of women at the frontline of welfare delivery. Their services are rendered essential while the workers continue to be invisibilised.

Other contradictions too manifest themselves. The 2006 judgement maintained that the Anganwadi workers were free to contest elections as they did not hold a civil post. In practice, this is not allowed. Anganwadi workers and ASHAs have been [dismissed](#) from their positions after winning local elections. High courts have [held](#) that the workers would have to forgo their employment and honoraria if they are elected to panchayats or other local bodies. They have referred to the indispensability of scheme workers to the public health system and remarked that the workload is not commensurate with that of a part-time worker.

The National Health Mission [claims](#) that the responsibilities of ASHAs are such that they do not interfere with their engagement in any other activity. Yet, state health departments deter workers from taking up supplementary jobs. Behanbox [details](#) how departments in Maharashtra and Haryana have made ASHA workers sign an undertaking that they would not take up any other job. The restrictions on taking a supplementary job or contesting elections are made with an understanding of the essential and full-time nature of the work, without recognising it as such in jurisprudence.

The many contradictions and inconsistencies in defining scheme work have everyday implications for lakhs of women at the frontline of welfare delivery. Their services are rendered essential while the workers continue to be invisibilised. The perceived ambiguity in their status as workers allows the upper management and allied stakeholders to command a range of work from them that does not fall under the scope of their responsibilities.

Workers' unions have called calling scheme work a form of "bonded labour".

Election duties are one instance. Formally, scheme workers cannot be employed for poll work, as they are not staff, a position clarified by both the [Bombay](#) and [Allahabad](#) High Courts. In practice, ASHAs and Anganwadi workers are pressed into such work. Aside from government interventions, workers are routinely roped in for [experimental programmes](#) of non-governmental organisations and private agencies. Social interventions of all manners are implemented through scheme workers, assuming them to be a naturally available cadre

of workers. These duties are presented as optional but are hardly so in practice.

The scheme workers also play a central role in mitigating health crises, such as the one presented during the Covid-19 pandemic. Their work was extracted without adequate remuneration or protective gear. The recent spur in protests by scheme workers is influenced by the hazardous working conditions presented during the pandemic.

### **Everyday precarity**

The ready employability of scheme workers in a range of both government and non-government initiatives is an attribute of their ambivalent positioning as workers. Workers’s unions have called this a form of "bonded labour." Anganwadi workers’s unions have historically pushed for the institutionalisation of the ICDS, making it a regular government department. Several bills have also been introduced in the past for the regularisation of the services of ASHAs and AWWs, but not followed through.

Governments and legal structures recognise the essentiality of the work performed by ASHA workers and Anganwadi workers. Yet, they fall back on the “voluntary status” in situations of conflict, allowing for workers to be removed without explanation or prior notice.

The everyday manifestation of this precarity is in subservience to supervisors who control their task-based incentives. They influence both the workers’s earnings and their relationships with their superiors. Most workers also identify themselves as staff or employees of the state, and thus not in a position to refuse any additional tasks. It ensures that the workers carry out the responsibilities designated to them, even if they are completely out of the scope of their regular duties. It also serves to discourage and penalise their participation in unions and collectives.

### **References:**

Sreerekha. M.S. (2017) *State without Honour: Women Workers in India’s Anganwadis*. New Delhi: Oxford University Press.