CHAPTER IV

THE UNORGANIZED WORKERS’ SOCIAL SECURITY ACT: INSTITUTIONAL FRAMEWORK

4.1 Introductory

The Unorganized Workers’ Social Security Act, 2008 is an exclusive legislation providing social security to unorganized workers in India. The present chapter of the thesis is devoted to complete analysis of the Act. The entire scheme of the Act has been analysed and evaluated in this chapter. The constitution, composition, powers and functions of the National Social Security Board and State Social Security Boards, are discussed in detail. The provisions regarding enforcement of the Act and registration of workers under the Act are also critically analysed in this chapter. The benefits and social security schemes framed for the unorganized workers under the Act are also discussed.

4.2 Historical Development and Introduction about the Act

The unorganized workers prior to the enactment of the Unorganized Workers’ Social Security Act, 2008 were not in statute books and have not been defined. However they have remained the part of the studies of various Commissions and Committees constituted for the labour. It is the first time when the unorganized workers in the country are defined by the Unorganized Workers’ Social Security Act, which is exclusively enacted for them. The definition of ‘unorganized worker’ given
in this Act includes various categories of worker like, home based workers, wage workers, self employed workers, domestic workers, migrant workers, casual or temporary workers. In case of ‘self employed workers’ the Act prescribes a ceiling (limit) on monthly earning and holding on cultivable land, that may be notified by the Central Government or the State Government from time to time. Thus these categories of workers i.e. ‘self employed workers’ and ‘wage workers’ are not automatically considered as unorganized worker under the Act, but are subjected to the conditions mentioned in the Act. There are some lacunas in the definition clauses of the Act. The conditions imposed in defining the wage workers and self employed workers limit the scope of the Act. This Act neither lays down the parameters or scale to determine the monthly earning or monthly wage nor talk about the ceiling or holding of cultivable land. However the Central Government has power to notify the monthly wages yet the entire matter has been left in the hands of the State Governments. This situation lead to the variety of matters (in defining the ceiling of cultivable land or monthly wages) and there may arise various class of unorganized workers. By this way no uniformity can be maintained in defining the unorganized workers. In addition to, the Schedule II of the Act also limits the scope of the definition of the unorganised worker. Section 2(m)of the Act conveys that if any worker who is covered by any of the Act, mentioned in Schedule II to this Act, is not unorganized worker, whether he is covered by any social security provisions or not. Besides it, the sex workers, who are recognized by the
Second National Commission on Labour as unorganized workers are not placed in the definition of unorganized workers under the Act. So there is a need to give wide dimensions to the meaning, and classification of the unorganized workers for the purpose of social security.

On 15th October 1999 the Indian Government resolved the appointment of the Second National Labour Commission. This commission was asked to suggest umbrella legislation for ensuring a minimum level of protection to the workers in the unorganized sector. In 2002 the Second National Commission on Labour submitted its report with the recommendation for an ‘umbrella legislation’ to cover those workers who are not protected by the existing labour laws. But these recommendations were not implemented by then Government. Then the Government in September 2004, appointed another commission which is known as the National Commission for Enterprises in the Unorganized Sector. In August 2005 and May 2006 the National Commission for Enterprises in the Unorganized Sector submitted two reports to the Government containing draft legislation on securing the conditions of work and creating a social security scheme for unorganized workers. In 2005 the National Advisory Council also submitted a draft bill based on the recommendations of the Second National Labour Commission. This draft Bill which was titled ‘The Unorganized Workers’ Social Security Bill’ was tabled in the Rajya Sabha in September 2007. This draft received the assent of the President of India on 30th December 2008 and became
an Act having a title ‘The Unorganized Workers’ Social Security Act, 2008. The Act ¹ primarily aims at providing social security and welfare of unorganized sector workers. The words “unorganized sector” in the Act has a broader definition which can be made applicable to all sections apart from organized sectors where social security measures already exist. Unorganized sector is defined in the Act as, “an enterprise owned by individuals or self-employed workers and engaged in the production or sale of goods or providing service of any kind whatsoever, and where the enterprise employs workers, the number of such workers is less than ten” ². The Act also gives a wide definition to unorganized workers. According to the Act unorganized workers include home based worker, self employed worker, or a wage worker in the unorganized sector and the workers of the organized sector who are not covered by any of the Acts mentioned in Schedule II to this Act.” ³ The Act further defines separately all types of workers which are mentioned in definition of unorganized worker. According to it ‘home-based worker’ means “a person engaged in the production of goods or services for an employer in his or her home or other premises of his or her choice other than the workplace of the employer, for remuneration, irrespective of whether or not the employer provides the equipment, materials or other inputs.” ⁴ Definition of the self employed worker is provided as “any person who is not employed by an employer,

¹ This Act came into force on 16th May, 2009, vide notification no. S.O. 1220(E), dated 14th May, 2009, Gazette of India, Extraordinary, Part II, sec. 3(ii).
² Section 2(l), The Unorganized Workers’ Social Security Act, 2008.
³ Section 2(m), The Unorganized Workers’ Social Security Act, 2008.
⁴ Section 2(b) The Unorganized Workers’ Social Security Act, 2008.
but engages himself or herself in any occupation in the unorganized sector subject to a monthly earning of an amount as may be notified by the Central Government or the State Government from time to time or holds cultivable land subject to such ceiling as may be notified by the State Government”\(^5\). Wage workers are defined by the Act as “a person employed for remuneration in the unorganized sector, directly by an employer or through any contractor, irrespective of place of work, whether exclusively for one employer or for one or more employers, whether in cash or in kind, whether as a home-based worker, or as a temporary or casual worker, or as a migrant worker, or workers employed by households including domestic workers, with a monthly wage of an amount as may be notified by the Central Government and State Government, as the case may be.”\(^6\) Thus it really includes almost every category of workers other than organized sector workers. The then Chief Justice K.G. Balakrishnan aptly highlighted the objectives of the Act in the following words: “Needless to say, the millions of unorganized workers are in dire need of a stable and reliable social security regime. The Unorganized Workers’ Social Security Act contains the delivery of benefits to unorganized workers in instances of sickness, disability, maternity, unemployment, old age and the death of a family’s bread winner. The Act has defined ‘unorganized workers’ in a wide and liberal manner so as to include those who are casually employed and receive daily or monthly wages as well as ‘home-based workers’ and even farmers who work on small

\(^5\) Section 2(k) The Unorganized Workers’ Social Security Act, 2008.
\(^6\) Section 2(n) The Unorganized Workers’ Social Security Act, 2008.
land-holdings. Hence, the legislative intent is to expand the social safety net as widely as possible."


The benefits proposed under the Act are: (a) life and disability cover (b) health and maternity benefits (c) old age protection generally and (d) any other benefit as determined by Central Government. The Act envisages that the States Governments may formulate suitable welfare schemes including provident fund, employment injury benefit, housing, educational schemes for children, skill up gradation of workers, funeral assistance and old age homes which may be wholly funded either by Central Government or shared by Central and State Government or along with contribution from employees also.

The Act empowers the Central Government to amend the schedule annexed to this Act and also empowers that ‘The State Government may formulate and notify from time to time, suitable welfare schemes for unorganized workers, including

8 Section2(m), The Unorganized Worker’s Social Security Act, 2008
9 Schedule II of the Act 2008(NO.33 OF 2008).
10 Section 3(3), UWSSA, 2008.
schemes relating to (a) provident fund; (b) employment injury benefit; (c) housing; (d) educational schemes for children; (e) skill up gradation of workers; (f) funeral assistance; and (g) old age homes. It is pertinent to mention here that the concept of social security have been split by the Act as the formation of schemes on life and disability cover, health and maternity benefits, old age protection are come under the purview of Central Government whereas provident fund, employment injury benefit, housing, educational schemes for children, skill up gradation of workers, funeral assistance, and old age homes are the matters on which States have the powers to frame schemes. However the Central Government has more power in this respect than State, as section 3(1) (d) of the Act empowers the Central Government to determine any other benefit on the matter of social security. State Governments have a fixed frame on the formulation of schemes. Ideally formulation and designing of all type of social security schemes should be under one roof; means there should be one agency or authority for the purpose.

The Act also contains the provisions for constitution of a National Social Security Board for unorganized workers. Powers have been given to the Board to makes recommendations to Central Government for the formulation of, from time to time suitable welfare schemes. Section 3 of the Act also empowers the Central Government to formulate and notify, from time to time, suitable welfare schemes for unorganized workers on matters relating to, (a) health and

11 Section 3 (4), UWSSA, 2008.
maternity benefits (b) life and disability cover (c) old age protection and (d) any other benefits as may be determined by the Central Government\textsuperscript{12}. The Act says that the schemes included in the schedule I to this Act shall be deemed to be the welfare schemes under sub section (1) of this section\textsuperscript{13}.

The machinery for implementing these schemes will consist of a ‘National Social Security Board’ and ‘State Social Security Board’. These Boards will perform the tasks of supervising the collection of contributions, maintenance of Social Security Funds and ensuring the proper dispersal of benefits. The nodal role will be played by the District-level authorities who will be responsible for the registration of workers for the scheme and unique identification cards will be issued to the intended beneficiaries. In keeping with the philosophy of decentralization, the actual registration of workers will be performed by Worker Facilitation Centers (WFC) which is to be run by Panchayati Raj institutions. Thus this Act is a master piece of social legislation, in the field of social protection of labour class, particularly of unorganized or informal sector. In the following pages the researcher has made an attempt to discuss the total schemes of this Act. Each and every provision of the Act has been analyzed and evaluated.

4.3 Social Security Benefits under the Act

Section 3 (1) and (3) 4 of the USSWA depict a picture of the social security benefits which are to be provided by the Central Government and State Governments to unorganised

\textsuperscript{12} Section 3 (1) UWSSA, 2008.
\textsuperscript{13} Section 3(2) UWSSA, 2008.
workers. The Act provides that the Central Government shall formulate and notify from time to time suitable welfare schemes for unorganised workers on the matters of life and disability cover, health and maternity benefits, old age protection and on any other matter as may be determined by the Central Government. The subject matters that are referred to State Governments are the provident fund, employment injury benefit, housing, educational schemes for children, skill upgradation of workers, funeral assistance and old age homes. However welfare of labour is subject matter which is kept in the concurrent list under Indian Constitution. Thus the Central Government on this basis has limited its responsibility to life and disability cover, health and maternity benefits, old age protection and rest of social security benefits are to be provided to unorganized workers by the State Governments. Section 3(1) of the Act makes it mandatory on the part of the Central Government that the Central Government shall formulate and notify from time to time suitable welfare schemes for unorganised workers. Section 3(2) of the Act corresponds the meaning that the schemes included in the schedule I to this Act shall be deemed to be welfare schemes under section 3(1). Further section 3(3) empowers the Central Government to amend the schedule annexed to this Act. However the State Governments are not under a mandatory obligation to formulate the schemes on subject matters referred to it under the Act. This Act in fact provides a wide range of social welfare schemes but this way does not go to the social security as social security is a wide concept and include the component of income security and employment security
also. However there is a gray area also on the matter of old age protection. The Act is silent on the issue that what type of social security to be provided by the Central Government through welfare scheme in old age? It is pertinent to mention here that the obligation to run the old age homes has also imposed on the State Government under the provisions of the Act. Further it is also under a cloud that whether the schemes to be formulated and notified by the Central Government and State Governments on the various components of social security mentioned in Act, would be based on the recommendations or advise of the National Social Security Board or State Social Security Board (as the case may be) or the Central Government and State Governments can frame the schemes on their own behalf? In other sense the question is that whether the Act confers the power on the Central Government or the State Governments to formulate and notify the schemes without the recommendations or advise of the National Social Security Board and State Social Security Board. Thus there is a need to more clarification in the Act on the matters of benefits to be provided under the Act to the unorganised workers. It is also advised that all the schemes or benefits for the unorganized workers should be framed under a Single Window System. Such type of practice will create uniformity throughout the Country on the matter of social security. For this purpose the Central Government may be entrusted with this task.
4.4 Objectives and Constitution of the National Social Security Board

Protection of the rights of the unorganized labour is the prime motive of the Unorganized Workers’ Social Security Act. Towards achieving of this goal the responsibility has been conferred on the National Social Security Board as well as on the State Social Security Boards, constituted under the Act. Before the discussion on the objectives of the boards it is pertinent to mention here that these Boards at both levels i.e. Centre and State have the identical structure in relation to the constitution, composition, functions and powers conferred on them by the Act. The motive and the objective of these boards are the same under the Act. The only difference between these is of jurisdiction. These boards are under an obligation to enhance the welfare and social security provisions for unorganised sector workers, the another function of these Boards are to design and provide social security to unorganized sector workers including, provident fund; employment injury benefit; housing; educational schemes for children; skill up gradation of workers; funeral assistance; old age homes, and to improve the safety conditions and safety of workers. Further the objectives of these boards are to monitor the social security schemes and to review the progress of registration of workers under the Act. These boards are also kept watch on the funds, expenditure and on others administrative matters of this Act as may be referred to them by the Central Government. However at the Central level the entire responsibility to provide social security to unorganized workers is cast upon the National Social Security Board. The
Act provides the constitution of National Social Security Board under the chairmanship of Union Minister for Labour & Employment with Member Secretary and 33 nominated members representing Members of Parliament, unorganized workers, employers of unorganized workers, civil society, Central Ministries and State Governments, with provisions for adequate representation to persons belonging to the schedule castes, the schedule tribes, the minorities and women\(^\text{14}\). The functions of the National Board are to recommend the suitable schemes for different sections of unorganized workers and monitor the implementation of schemes and advise the Central Government on matter arising out of the administration of the Act.

The National Social Security Board shall consist of the following members\(^\text{15}\), namely:

(a) Union Minister for Labour and Employment-Chairperson, ex officio;

(b) The Director General (Labour Welfare)-Member-Secretary, ex officio; and

(c) Thirty Four members to be nominated by the Central Government, out of whom-

(i) Seven representing unorganised sector workers;

(ii) Seven representing employers of unorganized sector

(iii) Seven representing eminent persons from civil society;

\(^{14}\) Chapter III, UWSSA 2008.

\(^{15}\) Section 5 (1), UWSSA, 2008.
(iv) Two representing members from Lok Sabha and one from Rajya Sabha;
(v) Five representing Central Government Ministries and Departments concerned; and
(vi) Five representing State Governments.\textsuperscript{16}

At the first instance in the composition of the National Social Security Board, the Act has tried to involve the unorganized workers in a ‘policy making system’ by which they can watch, write and protect their future, that is to be determined through the welfare or social security policies. That is why the provisions are made to nominate seven members of the board from the unorganised sector workers. In this Act an attempt has been made to balance between the interests of laborer as well as of employers of the unorganised sector. The Act also empowers the Central Government to nominate seven members of National Social Security Board from civil society. The Act is also claiming that “the chairperson and other members of the board shall be from amongst ‘persons of eminence’ in the fields of labour welfare, management, finance, law and administration\textsuperscript{17}. The Act further provides that adequate representation shall be given to persons belonging to the scheduled castes, the scheduled tribes, the minorities and women\textsuperscript{18}. But in reality these provision arise several doubts about the successfulness of the board, for the purpose and philosophy, for which it has been constituted. On the above said provision it would be very difficult for government to

\textsuperscript{16} Section 5(2), UWSSA, 2008.
\textsuperscript{17} Section 5 (3), UWSSA, 2008.
\textsuperscript{18} Section 5 (4), UWSSA, 2008.
select or elect the seven persons representing unorganized sector workers, because the workers from the unorganized sectors are generally known as illiterate, low literate, low paid workers, having no trade unions, and generally they come from the low strata and are living below poverty line. Let’s think, with these disqualifications, will they be able to understand and protect their rights? This Act does not answer these questions, and of course, the answer is negative. Further no procedure for the selection or election of the members of the board is laid down in the Act. In this situation, how government would be able to select or elect the person of eminence from these sections? Another question arises about the members to be nominated from the civil society. The question is that, what is the civil society? And who are the members of it? Are the unorganized workers not members of the civil society? The answers of these questions are also not affirmative in the Act. Further the proportion for adequate representation of schedule caste, schedule tribes, minorities and women is not described in the Act. Having many lacks, it is a jumbo and hoax board of thirty six members. However this Board is constituted for the welfare of the unorganized workers yet the unorganized workers have not adequate representation in the board strength. So there is a need to recompose the National Social Security Board by giving at least fifty percent representation to unorganized workers and their representatives through trade unions. Representation given to seven members of civil society should be withdrawn as there is no definition and no criteria to ascertain the civil society. The members of the boards should be elected from ‘registered
unorganised workers’ by general election. By this way unions of the unorganized labours may be strengthen. International Labour Organization also recognizes the trade union right. According to it the right to organize and form employers' and workers' organizations is the prerequisite for sound collective bargaining and social dialogue. The nomination system is not good sign for democracy particularly in case of selection of members for National Board as well as States Board. This procedure gives birth to corrupt and unfair practice. Government has an upper hand to nominate the persons of their own choice whether they are capable to nomination or not. Other deficiencies their qualification and proportionate share of schedule caste, schedule tribes, minorities and women should also be removed by laying down clear cut provisions in the Act. It is equally important to mention here that the central government has not implemented the Act in its true sense. So the Act should be amended accordingly for the betterment and uplift of the unorganized workers.

4.5 Tenure of the National Social Security Board and Terms of the office of Members

According to the provisions of the Act the terms of the National Social Security Board shall be three years\(^\text{19}\). The Unorganized Workers ‘Social Security Rules, which are supplementary and give an extension to the Act, explain about the term of members of the Board. According to these provisions a member, other than ex officio member, shall hold office for a period not exceeding three years from the date of

\(^{19}\) Section 5(5), UWSSA 2008.
his nomination\textsuperscript{20}. Further it explains that a member nominated\textsuperscript{21} from the House of Representatives shall cease to be a member of the board if he ceases to be a member of the House of Parliament by which he was so elected.\textsuperscript{22} A member nominated under sub-clause (i), (ii) and (iii) of clause (c) of sub section (2) of section 5 shall cease to be a member of the board if he ceases to represent the category of interest from which he was so elected. Provided that out of seven persons nominated under sub clause (i), one member each from the schedule caste, the schedule tribe, the minorities and women shall be represented\textsuperscript{23}. A member shall be eligible for re-nomination\textsuperscript{24}. There is no provision under the Act which debars the re-nomination of a member.

\subsection*{4.6 Qualification of Members of the National Social Security Board}

The Act lays downs qualifications for the members of National Board. It states that the chairperson and other members of the Board shall be from amongst the ‘persons of eminence’ in the fields of labour welfare, management, finance, law and administration\textsuperscript{25}. The term ‘eminence’ which is used for the qualification of the members is very vague and is not defined in any specific sense. The Act requires that National Board shall consist of the seven member representing the

\textsuperscript{20} Section 3(1), UWSSR, 2009.
\textsuperscript{21} Section 5 (2) (c) (iv), UWSSA, 2008.
\textsuperscript{22} Section 3(2), UWSSR, 2009.
\textsuperscript{23} Section 3 (3), UWSSR, 2009.
\textsuperscript{24} Section 3(4), UWSSR, 2009.
\textsuperscript{25} Section 5 (3) UWSSA 2008.
unorganized sector worker and seven representing employer of the unorganized sector.

In view of the above it can be said that it is quite difficult to find out the person of eminence amongst the unorganized workers because they come from low strata of society and are mostly illiterate or low illiterate. Further they are not organized, the First National Commission on Labour has also defined unorganized workers as those who have not been able to organized themselves in pursuit of a common objective because of constraint such as (a) casual nature of employment, (b) ignorance and illiteracy, (c) small and scattered size of establishment with low capital investment per person employed, (d) scattered nature of establishment (e) superior strength of the employer operating singly or in combination. It is unfortunate that nearly 35 year later The Second National Commission on Labor has visualized the same scenario and same contributory factor leading to the poor status of unorganized labor in India. In present, situation in this regard, is not changed and the unorganized workers are on the same footing. So it not easy to, find out the persons of such 'eminence' that can be nominated as member. The Act also states that seven persons will be from the employer of unorganized sector, it would also be pertinent to mention that, to find the suitable person representing the employer from the unorganized sector is also a difficult task, like the unorganized worker the employers of the unorganized sectors are not organize. The major problem in this matter is that, there exist

no formally established relation between employee and employer. In this situation government may nominate the persons who are close to them. It is well known fact that the workers particularly in unorganized sector is quite often discriminated due to their low literary level and poverty. If they are nominated as a member they would be as mute spectator, and will act as a puppet in the hands of the powerful employers or government. Without empowerment of labour and providing them foolproof social security net, these representatives would not be able to protect the interest of poor masses. Qualification of the board member plays a significant role in establishing the good labour relations. He must be aware of the applicable legislation, as well as of the labour relations practices. Board member must have relevant experience including a demonstrated ability to analyze evidence, exercise judgment, solve problems and work towards the matters related to labour welfare. So the term ‘eminence’ which is used in the Act must be defined.

4.7 Procedure for Removal / Resignation of the Members of the National Social Security Board

The provisions of the Unorganized Worker Social Security Act, deal with the nomination of board members. The rules for removal or resignation of the members of the National Social Security Board are provided under the Unorganized Worker Social Security Rules, 2009 which are framed to supplement the Act. These rules are hereinafter referred as UWSSR, 2009. According to these rules a member of the board not being an
ex officio member may resign his office by a letter in writing addressed to the chair person\textsuperscript{27}. The seat of such a member shall fall vacant form the date on which his resignation is accepted or on the expiry of the thirty days from the date of receipt of intimation of resignation whichever is earlier.\textsuperscript{28} The power to accept the resignation of a member shall vest in the chair person who on accepting the resignation shall report to the board at its next meeting.\textsuperscript{29} The above provisions explain that a member can leave the board by resigning from the membership, but if a member who has been failed to protect the interest of labors, for the purpose, he was so elected, is not leave or resign, then what type of procedure will be adopted by the board to remove the member? Of course it is not prescribed in the Act. The Act does not speak about the removal of chairman and member secretary if they are failed to protect the interest of the voiceless unorganized labour. So there is a need to amend the provisions of the Act regarding the removal of members if they lose the interest of worker community for which they are nominated, for this purpose there should be a provision of referendum to decide that whether the chairman and secretary of the board are capable to protect the interests of workers community? In this question if referendum says ‘no’ then government should remove these persons from their position. A comprehensive procedure should be laid down for this purpose in Act.

\textsuperscript{27} Section 4(1), USSWR, 2009.
\textsuperscript{28} Section 4(2), USSWR, 2009.
\textsuperscript{29} Section 4(3), USSWR, 2009.
4.8 Meetings of the National Social Security Board

The Act contains the provisions regarding the meeting of National Social Security Board. According to these provisions “the National Social Security Board shall meet at least thrice a year, at such time and place and shall observe such rules of procedure relating to the transaction of business at its meeting as may be prescribed". In this regard the rules framed under the Act states that the board shall meet at such places and at such time, as may be decided by the chairperson and shall meet at least once in four months. Thus this section gives powers to chairperson to convey the meeting and also to preside over the meeting. The chairperson shall preside over every meeting of the board in which he is present and in his absence he may nominate a member of the board to preside over such a meeting in his place and in the absence of such nomination by the chairperson, the member of the board present in such meeting may choose from amongst themselves a member to preside of this meeting. Ordinarily before conveying the meeting, two weeks’ notice shall be given to the members of the Board of a proposed meeting. Provided that the chairperson if he is satisfied that it is expedient so to do, may gives a notice of longer period not exceeding one month for such meeting. The rules provide that no business expect which is included in the list of business for a meeting of the board shall be considered at meeting without the permission of

30 Section 5 (6), UWSSA, 2008.
31 Section 9(1), UWSSR, 2009.
32 Section 9(2), UWSSR, 2009.
33 Section 10(1), UWSSR, 2009.
the chairperson\textsuperscript{34}. However a business which is not included in the list may be considered for discussion in the meeting with the permission of the chairperson. The chairperson has a power to call a special meeting of the board in case of urgency after informing the members in advance about the subject matter of discussion and reason of urgency\textsuperscript{35}. In view of the above it can be said that the provisions regarding the meeting seem good but they don’t convey any sense of mandatory obligation on the board. There is no provision, neither in the Act nor in the Rules for any penalty or any action, if the Board does not call the meeting as per the provisions of the Act. Neither the Act confers any power on the members of the board, other than chairperson, to call the meeting in case of urgency or unwillingness of chairperson to do the same. Since the things and other circumstances are changing rapidly, therefore it is desired that the meeting of the Board should take place frequently. So the Act may be amended by enabling the members of the Board to call the special meeting.

### 4.9 Quorum for Meeting for the Transaction of Business

The Unorganized Workers Social Security Rules provide that no business shall be transacted at any meeting of the board unless at least six members are present in that meeting which shall include at least one Member of Parliament\textsuperscript{36}. Provided that if at a meeting less than six members are present, the chairperson may adjourn the meeting to another date informing the members present and giving notice to other

\begin{itemize}
\item \textsuperscript{34} Section 10(2), UWSSR, 2009.
\item \textsuperscript{35} Section 10(3), UWSSR, 2009.
\item \textsuperscript{36} Section 11(1), USSWR, 2009.
\end{itemize}
members that he proposes to dispose of the business at adjourned meeting whether there is prescribed quorum or not and it shall there upon be lawful for him to dispose of the business at the adjourned meeting irrespective of the number of members attending. The Central Government has a power to debar any member other than ex-officio members, from taking part in the meeting of the board if he absent himself from three consecutive meeting of the Board without information to Chairperson in writing and consent of the Chairperson or in the view of the Central Government, such members has ceased to represent the interest which he purports to represent on the Board. The important concern is that the quorum provided for meeting is very minimal and there should be at least thirteen members for quorum. The minimal numbers in quorum gives free hand to government to run the business according to its choice therefore such type of practice is not only undemocratic but defeat the objective of the Act and as well as ruin the future of the unorganized labour. So it is essential that there should be a quorum of at least thirteen members out of whom at least five members must be from representatives of unorganized workers, so that the voice of these vulnerable workers could not be unheard.

4.10 Allowances of the Members of the National Social Security Board

The Act deals with the provision of the allowances to be paid to member for attending the meeting of the national

37 Section 11(2)(a), USSWR, 2009.
38 Section 11(2)(b), UWSSR, 2009.
board. The travelling allowance to an official member of the board shall be governed by the rules applicable to him for journey performed by him on official duty and shall be paid by the authority paying his salary. The non official member of the board shall be paid travelling allowance for attending the meeting of the board at such rates as are admissible to group A officers of the Central Government and daily allowances shall be calculated at the maximum rate admissible to group A officers of the central government in their respective places.

One thing in relation to the allowances of the members is that the allowances to be paid to non official members of the National Social Security Board for meeting are insufficient, particularly in case of the members representing the unorganized workers. Because these person are daily bread-earners, having no job or income security. In such situation if they attend the meeting, their earning may be affected and they may lose their job also. So these members should be fully protected in the matter of employment. The salary to be paid to the members of the Board (particularly for representing unorganized workers) for the days of meetings in addition to the travelling and dearness allowances should be determined in the Act.

4.11 Disposal of the Business by National Social Security Board

The business put up before the Board shall be disposed of with majority. Rules framed under the Act states that ‘every
matter which the Board is requires to take into consideration shall be considered at meeting of the Board or if the Chairperson so directs, by sending the necessary paper to every members for opinion, and the matter shall be disposed off in accordance with the decision of the majority’. Rules further provide that where there is no opinion of majority on the matter and the members of the board are equally divided. The Chairperson shall have a second or a casting vote. An explanation in this regard has also been added, that the “Chairperson for the purpose of the above provision shall includes a member nominated or chosen under sub rules (2) of rule 9 to preside over a meeting42.

4.12 Functions of the National Social Security Board

The responsibility to provide the social security for unorganized workers has been casted upon the National Board. The Act empowers43 the National Board to perform the following functions, (i) recommend to the Central Government suitable schemes for different sections of unorganized workers,44 (ii) advise the Central Government on such matters arising out of the administration of this Act as may be referred to it,45 (iii) monitor such social welfare schemes for unorganized workers as are administered by the Central Government,46 (iv) review the progress of registration and issue of identity cards to the unorganized workers,47 (v) review the

42 Section 8, USSWR, 2009.
43 Section 5(8), USSWA, 2008.
44 Section 5(8) (a), USSWA, 2008.
45 Section 5 (8) (b), USSWA, 2008.
46 Section 5 (8) (c), USSWA, 2008.
47 Section 5(8) (d), USSWA, 2008.
record keeping functions performed at the State level,48 (vi) review the expenditure from the funds under various schemes49 and (vii) undertake such other functions as are assigned to it by the Central Government from time to time50.

The first function of the Board is that it will recommend the ‘suitable schemes, for different sections of unorganized workers. But the Act does not define the term ‘suitable scheme’ and corresponds the doubt whether these ‘suitable scheme’ would be suitable for government or for workers, is a question of concern? Because in new trend of globalization Governments are scarifying the labour rights and have turned its back on the working people and the poor. The Act neither explain ‘suitable scheme’ nor define the term ‘social security’. The Act explains only the possible schemes of social security. Social security cannot be reduced to schemes but should be articulated from the perspective of the rights derived from constitutional right and principles. So in such a situation where the philosophy of government towards the labour welfare and social security for informal workers is not clear, it is suspicious that what type of scheme the National Board would launch. It is the unorganized workers particularly where the apathy of government is glaring visible. Second function which is assigned to the board is that it will advise the Central Government on such matter arising out of the administration of the Act as may be referred to it. Third function of the board is monitoring of social welfare scheme which are administered

48 Section5 (8) (e), USSWA, 2008.
49 Section5 (8) (f), USSWA, 2008.
50 Section5 (8) (g), USSWA, 2008.
by Central Government. The forth duty of the board is to review the progress of registration and issue the Identity Card to the unorganized worker, further it has been entrusted with duty to review the record keeping functions performed at state level and also review the expenditure from the funds under various scheme and lastly undertakes such other function as are assigned it by the Central Government. In view of the above discussion it is clear that in real sense ‘legislation’ is meant for guaranteeing certain legal commitment on the part of the State. But this Act leaves the implementation entirely at the whim of the Government of the day. The National Social Security Board which is empowered with power of recommendation, advise, review and monitoring needless to say that these are the ornamental powers and cannot enforce the implementation of any welfare scheme. Thus the National Social Security Board has only an advisory and monitoring role according to the provisions of the Act. The Board will be effective only when it is entrusted with the powers to determine, administer and enforcement of the social security schemes, therefore the Act needs to be amended accordingly.

4.13 Objective and Constitution of the State Social Security Board

Labour welfare is a subject matter of concurrent list under Indian Constitution. The UWSSA is a Central legislation and by such way it casts a sole obligation on Central Government. But the Central Government has thrown more than half responsibility on State Government. The provisions under section 3(4) of the Act state that the State Governments may formulate and notify suitable welfare schemes for
unorganized workers on the matter of provident fund, employment injury benefit, housing, educational schemes for children, skill upgradation of workers, funeral assistance and old age homes. The Central Government has limited its responsibility to life and disability cover, health and maternity benefits, old age protection and any other benefit as may be determined by the Central Government. This Act also empowers the State Governments to constitute ‘State Social Security Board’. The Act also provides the identical powers and functions structure to the States Social Security Boards in relation to the social security for unorganized workers. The Act states that ‘every State Government shall by notification, constitute a Social Security Board to be known as (name of the State) State Social Security Board to exercise the powers conferred on, and to perform the functions assigned to it, under this Act\(^5\).

The Act states that the State Social Security Board shall consist of the following members, namely:-

(a) Minister of Labour and Employment of the concerned State-Chairperson, ex officio;

(b) The Principal Secretary or Secretary (Labour)-Member-Secretary, ex officio; and

(c) Twenty-eight members to be nominated by the State Government, out of whom-

(i) Seven representing the unorganized workers;

(ii) Seven representing employers of unorganized workers;

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\(^{51}\) Section 6(1), UWSSA, 2008.
(iii) Two representing members of Legislative Assembly of the concerned State;

(iv) Five representing eminent persons from civil society; and

(v) Seven representing State Government Departments concerned\textsuperscript{52}.

Further the Act lays downs the qualifications for members of the State Board and states that 'the Chairperson and other Members of the Board shall be from amongst persons of eminence in the fields of labour welfare, management, finance, law and administration\textsuperscript{53}. The number of persons to be nominated as members from each of the categories specified in clause (c) of sub-section (2), the term of office and other conditions of service of members, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among the members of, the State Board shall be such as may be prescribed, Provided that adequate representation shall be given to persons belonging to the Scheduled Castes, the Scheduled Tribes, the Minorities and Women\textsuperscript{54}.

4.14 Tenure, Meeting and allowances of the members of the State Social Security Board

According to the provisions of the Act the term of State Social Security Board shall be of three years\textsuperscript{55}, and the State Social Security Board shall meet at least once in a quarter at

\textsuperscript{52} Section 6 (2), UWSSA, 2008.
\textsuperscript{53} Section 6 (3), UWSSA, 2008.
\textsuperscript{54} Section 6 (4), UWSSA, 2008.
\textsuperscript{55} Section 6 (5), UWSSA, 2008.
such time and place and shall observe such rules of procedure relating to the transaction of business at its meetings, as may be prescribed\textsuperscript{56}. The members may receive such allowances as may be prescribed for attending the meetings of the State Social Security Board\textsuperscript{57}.

\subsection*{4.15 Functions of the State Social Security Board}

The State Board shall perform the following functions, namely:-

(a) recommend the State Government in formulating suitable schemes for different sections of the unorganized sector workers;

(b) advise the State Government on such matters arising out of the administration of this Act as may be referred to it;

(c) monitor such social welfare schemes for unorganized workers as are administered by the State Government;

(d) review the record keeping functions performed at the District level;

(e) review the progress of registration and issue of cards to unorganized sector workers;

(f) review the expenditure from the funds under various schemes; and

(g) undertake such other functions as are assigned to it by the State Government from time to time.

The position in case of powers, functions and tenure of the State Social Security Boards is almost same as is of the National Social Security Board. The State Social Security Board (SSSB) is a statutory body constituted under the Unorganized Workers Social Security Act, 2008.

\textsuperscript{56} Section 6 (6), UWSSA, 2008.

\textsuperscript{57} Section 6 (7), UWSSA, 2008.
Boards are also on an advisory role to the State Governments like the National Social Security Board. These are deprived of all type of decision making power on the matter of social security. All, the Centre and State Governments are seeming to find an escape from the responsibility in relation to social security. In spite of the fact that the Act gives power to State Government to constitute a State Social Security Board, many States have neither set up Social Security Board at the State level, nor framed rules and schemes for the benefits of the unorganized worker. As per the report received in the Ministry of Labour & Employment from the States only 11 states out of 29 have setup State Social Security Board and framed rules. Details\textsuperscript{58} are as under

<table>
<thead>
<tr>
<th>State</th>
<th>Board set up</th>
<th>Rule framed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Karnataka</td>
<td>Board set up</td>
<td>Rule framed</td>
</tr>
<tr>
<td>Chhatisgarh</td>
<td>Board set up</td>
<td>Rule framed</td>
</tr>
<tr>
<td>West Bengal</td>
<td>Board set up</td>
<td>Rule framed</td>
</tr>
<tr>
<td>Assam</td>
<td>Board set up</td>
<td>Rule framed</td>
</tr>
<tr>
<td>Orissa</td>
<td>Board not set up</td>
<td>Rule framed</td>
</tr>
<tr>
<td>Gujarat</td>
<td>Board set up</td>
<td>Rule framed</td>
</tr>
<tr>
<td>Kerala</td>
<td>Board set up</td>
<td>Rule framed</td>
</tr>
<tr>
<td>Andaman and Nicobar</td>
<td>Board set up</td>
<td>Rule framed</td>
</tr>
<tr>
<td>Tripura</td>
<td>Board set up</td>
<td>Rule framed</td>
</tr>
<tr>
<td>Rajasthan</td>
<td>Board set up</td>
<td>Rule framed</td>
</tr>
<tr>
<td>Andhra Pradesh</td>
<td>Board set up</td>
<td>Rule framed</td>
</tr>
</tbody>
</table>

Rest of the States has their own rules and schemes on the matter of social security for unorganized workers.

Unfortunately despite the constitutional mandate and government’s commitment toward the welfare and well being of all workers, particularly those in the unorganized sector who constitute a huge chunk of the work force, the question of well designed social security system is still unanswered and still it is a matter of discussion for Government even today.

4.16 Registration of Workers under the Act

The efficacy of delivery of any welfare scheme is dependent on the identification of genuine workers or beneficiaries. So it is essential and important to find out the genuine beneficiaries and to register them. The Act imposes a legal obligation on the government concerned to register the unorganized workers and issue identity cards for all the categories of workers covered under the Act. It is very common practice in India that the employers or contractors do not show all the workers on their record to avoid to pay the minimum wages rate, Pf contributions, excise duty and cess etc. Moreover, many workers are ghar-khata or home-based workers or self-employed workers and they do not enjoy the employer-employee relationship. In addition to it, the domestic workers, part time workers, piece rated workers don’t have a visible employee-employer relationship due to the dominant position of employers. Further the economic coercion also prevents the labour to raise their voice against such type of exploitive practice. Statistical reports reveal that many genuine targeted beneficiaries are not able to avail of the benefits to which they are entitled and at the same time many non-entitled individuals are availing of welfare benefits through
dubious means. So such type of situation can be avoided by making proper registration of workers.

4.16.1 Eligibility and Procedure for Registration of Workers under the Act

The Act states that, every unorganized worker shall be eligible for registration subject to the fulfillment of the following conditions, namely:

(a) He or she shall have completed fourteen years of age; and
(b) A self-declaration by him or her confirming that he or she is an unorganised worker. The Act defines the registered workers as ‘registered worker’ means an unorganized worker registered under sub section (3) of section 10. For the registration, every eligible unorganized worker shall make an application in the prescribed form to the District Administration. Further the Act provides that, every unorganized worker shall be registered and issued an identity card by the District Administration which shall be a smart card carrying a unique identification number and shall be portable. The Act assigned the duty to District Administration for record keeping function. It states that the record keeping functions for the purpose of this Act shall be performed by the District Administration. It is also provided that the State Government may direct that the record keeping function shall be performed by (a) The District Panchayat, in

59 Section 10 (1), UWSSA, 2008
60 Section 2 (h), UWSSA, 2008.
61 Section 12 (1), UWSSR, 2009
62 Section 10 (2), UWSSA, 2008.
63 Section (10) (3), UWSSA 2008.
64 Section 8, UWSSA, 2008.
rural areas; and (b) The urban local bodies in urban areas. Thus registration can be made through Government authorized agencies i.e. District Panchyats and Urban Local Bodies and an identity card which is required under sub section (3) of section 10 of the Act may also be issued through these agencies by recognizing these agencies as Workers Facilitation Centers.

4.16.2 Benefits or Advantages of Registration under the Act

In fact this Act was enacted to provide the social security for unorganized workers although the Act has not a specific contribution towards the social security for hitherto neglected and vulnerable labour. The Act provides that if any unorganized worker wants to take benefit of any scheme under the Act, he must be registered him /herself under the provisions of the Act. The provisions of the Act explain that, if a scheme requires a registered unorganized worker to make a contribution, he or she shall be eligible for social security benefits under the scheme only upon payment of such contribution\(^\text{65}\). The Act also contains that, where a scheme requires the Central or State Government to make a contribution, the Central or State Government, as the case may be, shall make the contribution regularly in terms of the scheme.\(^\text{66}\) As identification of unorganized workers is crucial to administering welfare and other social security measures, the process of identification of such workers should be fast-tracked. By the way of registration an accurate and authentic

\(^{65}\) Section (10) (4), UWSSA, 2008.
\(^{66}\) Section (10) (5), UWSSA 2008.
data base may be prepared. Once a data base is in place smart card could be issued to each beneficiary, that would carry all relevant information pertaining to the beneficiary and his/her family members occupations and also about the benefits due to the card holder with regard to the schemes he/she fits. The major weakness of this Act is that it does not lays down any type of punishment to the authorities concerned to, in case of non compliance of its provisions.

4.17 Establishment of Worker’s Facilitation Centers

The Act provides that the State Government may set up such Workers’ Facilitation Centres\(^{67}\) as may be considered necessary from time to time, to perform the following functions, namely:-

(a) disseminate information on available social security schemes for the unorganized workers;

(b) facilitate the filling, processing and forwarding of application forms for registration of unorganized workers;

(c) assist unorganized worker to obtain registration from the District Administration

(d) facilitate the enrolment of the registered unorganized workers in social security schemes.

In addition to these functions the establishment of workers’ facilitation center may be very helpful in case of unorganized workers. First task that may be done through these centers is to spread awareness about the welfare schemes for unorganized workers. Second task may be related to the self help group. The Government may promote the

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\(^{67}\) Section 9, UWSSA, 2008.
unorganized labour to form associations or self help groups of unorganized workers, by grouping workers from the same occupation, through these facilitation centers. Thirdly, the orientation camp to upgrade the skill of the workers may also be organized by these centers.

4.18 Social Security Schemes under the Act

The Act empowers the Central Government to formulate and notify, from time to time, suitable welfare schemes for unorganized workers on matters relating to, (a) health and maternity benefits (b) life and disability cover (c) old age protection and (d) any other benefits as may be determined by the Central Government\(^{68}\). The Act says that the schemes included in the schedule I to this Act shall be deemed to be the welfare schemes under sub section (1) of this section\(^{69}\). The schemes included in the Schedule I of the Act\(^{70}\) are as under:

1. Indira Gandhi National Old Age Pension Scheme.
4. Handloom Weavers’ Comprehensive Welfare Scheme
6. Pension to Master craft persons.
10. Rastriya Swasthya Bima Yojana.

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\(^{68}\) Section 3(1), UWSSA, 2008.
\(^{69}\) Section 3(2), UWSSA, 2008.
\(^{70}\) Schedule I, UWSSA, 2008.
These schemes have been discussed in detailed in the following pages.

4.18.1. **Indira Gandhi National old age Pension Scheme**

The aim of this scheme is to provide financial assistance to the old age persons. It was launched in 1995 under the National Social Assistance Programme. This scheme is run by the Ministry of Rural Development. In November 2007 it has been renamed as the Indira Gandhi National Old Age Pension Scheme, and its scope has been widened with a revision of its eligibility criteria. It is a non-contributory old age pension scheme that covers Indians who are 60 years and above and live below the poverty line. It is a centrally sponsored scheme, but from 2002-2003 it has been transferred to the State Plan and the States are providing flexibility in the choice and implementation of this scheme the amount of pension which was seventy five rupees, per beneficiary till now has been raised to two hundred rupees, per beneficiary, per month. Some States by adding their own share are giving pension at the enhanced rate. So this scheme aims at the providing a monthly pension for livelihood. The States are assigned the responsibility for identifying eligible beneficiary from the BPL list that prepares periodically. The mode of distribution of the pension amount is through bank/ Post office account. The

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73 In Haryana old age pension is being paid @1200/per month w. e. f.01.01.2015
State-wise detail of beneficiary (2015-16) is given in below table.

<table>
<thead>
<tr>
<th>Sr. no</th>
<th>State/U.T</th>
<th>IGNOAPS beneficiaries (excluding widows and persons with severe and multiple disabilities in the age group of 60-79 years covered under IGNWPS and IGNDPS).</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>80 years and above</td>
</tr>
<tr>
<td>1</td>
<td>Andhra Pradesh</td>
<td>93640</td>
</tr>
<tr>
<td>2</td>
<td>Bihar</td>
<td>300826</td>
</tr>
<tr>
<td>3</td>
<td>Chhattisgarh</td>
<td>73122</td>
</tr>
<tr>
<td>4</td>
<td>Goa</td>
<td>1609</td>
</tr>
<tr>
<td>5</td>
<td>Gujarat</td>
<td>81156</td>
</tr>
<tr>
<td>6</td>
<td>Haryana</td>
<td>31945</td>
</tr>
<tr>
<td>7</td>
<td>Himachal Pradesh</td>
<td>8913</td>
</tr>
<tr>
<td>8</td>
<td>J &amp; K</td>
<td>5421</td>
</tr>
<tr>
<td>9</td>
<td>Jharkhand</td>
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<tr>
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<td>Karnataka</td>
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<td>15</td>
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<td>Tamilnadu</td>
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<tr>
<td>23</td>
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<td>6535</td>
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<tr>
<td></td>
<td>State</td>
<td>Tier 1</td>
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<tr>
<td>---</td>
<td>----------------</td>
<td>--------</td>
</tr>
<tr>
<td>24</td>
<td>Meghalaya</td>
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</tr>
<tr>
<td>25</td>
<td>Mizoram</td>
<td>4267</td>
</tr>
<tr>
<td>26</td>
<td>Nagaland</td>
<td>2634</td>
</tr>
<tr>
<td>27</td>
<td>Sikkim</td>
<td>611</td>
</tr>
<tr>
<td>28</td>
<td>Tripura</td>
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</tr>
<tr>
<td></td>
<td><strong>Sub Total</strong></td>
<td><strong>2631815</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Union Territories</strong></td>
<td></td>
</tr>
<tr>
<td>29</td>
<td>A&amp;N Islands</td>
<td>429</td>
</tr>
<tr>
<td>30</td>
<td>Chandigarh</td>
<td>449</td>
</tr>
<tr>
<td>31</td>
<td>D&amp;N Haveli</td>
<td>341</td>
</tr>
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<td>32</td>
<td>Daman &amp; Diu</td>
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<td>33</td>
<td>NCT Delhi</td>
<td>12314</td>
</tr>
<tr>
<td>34</td>
<td>Lakshadweep</td>
<td>62</td>
</tr>
<tr>
<td>35</td>
<td>Puducherry</td>
<td>2509</td>
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<tr>
<td></td>
<td><strong>Sub Total</strong></td>
<td><strong>16232</strong></td>
</tr>
<tr>
<td></td>
<td><strong>GRAND TOTAL</strong></td>
<td><strong>2648047</strong></td>
</tr>
</tbody>
</table>

Source: www.indiastat.com/socialwelfaresschemes.

This scheme is a component of the National Social Assistance Programme (NSAP) which came into effect from 15th August, 1995. It represents a significant step towards the fulfillment of the Directive Principles in Article 41 of the Constitution. This scheme is launched for Social Assistance for the poor and aims at ensuring Minimum National Standard for Social Assistance in addition to the benefits that states are currently providing or might provide in future. In addition to this scheme NSAP at present, comprises of Indira Gandhi National Widow Pension Scheme (IGNWPS), Indira Gandhi National Disability Pension Scheme (IGNDPS), National Family Benefit Scheme (NFBS) and Annapurna also. The lacuna in this scheme is that firstly, it provides a very meager amount as a pension by which no one can bear the bare necessity of the life. Secondly the benefit under this
scheme can be claimed after the age of sixty years and not before it, thus the prime age of a worker would lead without social security. Thirdly this scheme is general in nature and not specific for unorganized workers. Fourthly it is only for BPL family and the persons or workers who come under BPL can take the benefit of this scheme. So the overview of the scheme shows that it is not a perfect scheme for the purpose of providing social security to unorganized workers.

4.18.2 National Family Benefit Scheme

This scheme was introduced on 15th August 1995 by the Government of India as a component of National Social Assistance Programme. The philosophy behind the launching of this scheme is to achieve the goals mentioned in Article 41 of the Indian Constitution which states that: “The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education, and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.” The objective of the scheme is to provide a lump sum amount of money to the house hold that lives under the below the poverty line, in the event of the death of primary bread winner74, irrespective of the causes of death. A woman in the family, who is a home maker, is also considered as a “bread-winner” for this purpose.75 The death of such a bread-winner should have occurred whilst he/she is more than 18 years of age and less than 60 years of age. The

74 Bread winner means any house hold member whose earnings contribute substantially to the house hold income.
lump sum grant to be paid under the National Family Benefit Scheme is twenty thousand rupees, w. e. f. 18th October 2012\textsuperscript{76}, prior to it this amount was ten thousand rupees. The benefit under the scheme is available when the age of the deceased is between 18 to 59 years. The payment is to be made, to such surviving members of the house hold of the deceased, who after local inquiry determined to be the head of house hold, for the purpose of this scheme. The term house hold includes spouse, minor children, unmarried adult, minor brothers and sisters. The scheme provides that the sanctioning authority has a right to recover the payment, if the payment was made by mistake about eligibility. At the time of beginning this scheme was centrally sponsored but now it has been transferred to State Plan, 2002-03.\textsuperscript{77} But in 2014-15 Central Government has changed the guidelines and converted all State Sponsored and Additional Central Assistance Schemes into Centrally Sponsored Schemes.\textsuperscript{78} This scheme is implemented by the Ministry of Rural Development and the funds are disbursed by the District Planning Boards.

Like the previous studied scheme (IGNOAPS) this scheme is also full of deficiencies. The amount determined for bereaved family is insufficient. The benefit to be provided under this scheme is a type of financial assistance only and does not assure or guarantee the social security for

\textsuperscript{76} Government of India, Office memorandum number 11015/1/2012NSAP dated 8th November 2012, (Ministry of Rural Development, New Delhi).


\textsuperscript{78} Government of India, Office memorandum number 11012/1/2013NSAP dated 13th March 2014, (Ministry of Rural Development, New Delhi).
deceased’s family. Further this scheme is also a general scheme and not only for the unorganized workers. Moreover the benefit under the scheme can be drawn on the death of breadwinner of family between the age of 18-60 years. But if age of the deceased breadwinner is less than 18 or more than 60 no benefit under this scheme can be drawn as per the existing provisions of the scheme. Many of the labour family may have faced such type of the situation. So in nutshell it can be said that this scheme does not correspond a sense of any type of social security for unorganized workers.

4.18.3 **Janani Surkasha Yojana**

It was introduced on 12th April 2005 under the National Rural Health Mission. Before it, this scheme was known as the National Maternity Benefit Scheme. The objective of the scheme is safe motherhood intervention. Its aim is to provide benefits to the pregnant women living in ‘Below Poverty Line’ families and to encourage ante-natal care, institutional deliveries, post partum/post natal care which is important for not only the health of mother but has a very significant effect on the health and survival of the new born. The vision behind the scheme is to reduce overall Maternal Mortality Rate (MMR) and Infant Mortality Rate (IMR) and to increase for institutional deliveries in below poverty line families. It is totally centrally sponsored scheme. All the pregnant women belonging to the below poverty line house hold and of the age 19 years or above are eligible under this scheme. The benefits

79 Guidelines for implementation of Janani Surkasha Yojana (Ministry of Health and Family Welfare Government of India).
of the scheme are limited to the first two live births. In the ten low performing States viz., Bihar, Chhattisgarh, Jharkhand, Madhya Pradesh, Orissa, Rajasthan, Utter Pradesh, Uttar Khan, Assam and Jammu Kashmir, where IMR and MMR is high BPL families are eligible for the benefits, for 3rd birth also, provided that the beneficiary opts for sterilization immediately after delivery. Under this scheme the cash is distributed to the poor pregnant women for institutional delivery. The cash benefits to the mother are limited to seven hundred rupees in rural area in high performing states and fourteen hundred in low performing states, and the package of twelve hundred and six hundred rupees in urban area respectively.

The structure of this scheme has also a limited scope on the matter of social security. This scheme is only confined with the only objective to provide the nutrition in pregnancy to the women of below poverty line families. In this scheme nothing is special for unorganized workers regarding social security.

**4.18.4 Handloom Weavers’ Comprehensive Welfare Scheme**

Since 2005-06, the Government of India was implementing two separate schemes namely the ‘Health Insurance Scheme’ for providing health care facilities to the handloom weavers in the country and the ‘Mahatma Gandhi Bunkar Bima Yojana’ for providing life insurance cover to handloom weavers. During the 11th plan, both the schemes

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were amalgamated into one scheme\textsuperscript{81}, namely Handloom Weavers’ Comprehensive Welfare Scheme and presently implemented as under two components (i) Health Insurance Scheme (ii) Mahatma Gandhi Bunker Bima Yojana.\textsuperscript{82}

(i) Health Insurance Scheme

The Government of India was implementing a Health Package Scheme since the year 1992-93, as welfare measure for the benefit of the handloom weavers. Government had introduced the health insurance scheme for handloom weavers in 2005-06 which was implemented through the ICICI Lombard General insurance company ltd. Later on the Government introduced this scheme in a revised form in 2007-08 & 2008-09\textsuperscript{83}. The objective of the health insurance scheme is to make financially enable the weaver community to access the best of health care facility in the country. The scheme is to cover not only the weaver but his wife and two children also. To cover all pre existing disease as well as new diseases, the substantial provision for outpatient door (OPD) is also made under this scheme. The ancillary Handloom Workers like those engaged in wrapping, winding, dying, printing, fishing, sizing, Jhala making, jacquard cutting etc. are also eligible to be covered under the scheme. The limit of

\textsuperscript{81} Government of India, \textit{Annual Report}, para. 10.3 (Ministry of Textiles, 2014-15)


beneficiary per family is fifteen thousand rupees of which seven thousand and five hundred rupees are provided for the OPD. This scheme is mainly contributory in its nature. For this scheme, contribution by Government of India as annual premium is six hundred and forty two rupees and share of State will be one hundred and forty rupees per annum. The minimum contribution by the weaver should be fifty rupees per family, even in cases where State Government are making contribution on his behalf. This scheme does not include the corrective cosmetic surgery or treatment, HIV\textsuperscript{84} AIDS\textsuperscript{85}, sterility, venereal diseases, intentional self injury, use of intoxicating drug or alcohol, war, riot, strike, terrorism acts and nuclear rick\textsuperscript{86}. This scheme has been discontinued w.e.f. 30\textsuperscript{th} September 2014 and now the scheme is to be implemented as Rastriya Swasthay Bima Yojna under the umbrella of Ministry of Labour & Employment\textsuperscript{87}.

(ii) **Mahatma Gandhi Bunker Bima Yojana**

The Government of India had introduced the “Bunkar Bima Yojana” in December, 2003 which was a combination of Janshree Bima Yojana and Add-on Group Insurance Scheme being implemented in collaboration with the Life Insurance Corporation of India. Since, 2005-06 this scheme was revised and has been implemented revised with title “Mahatma Gandhi Bunker

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\textsuperscript{84} HIV means Human Immuno Virus, which causes AIDS.
\textsuperscript{85} AIDS Means Acquired Immune Deficiency Syndrome.
\textsuperscript{87} Government of India, \textit{Annual Report} p.198 (Ministry of Textiles, 2015-16).
Yojana". The basic objective of the “Mahatama Gandhi Bunkar Bima Yojana” is to provide enhanced insurance cover to the handloom weavers in the case of natural as well as accidental death and in cases of total or partial disability. It covers weavers within the age group of 18 to 59 years. Under this scheme the sum assured was fifty thousand rupees in case of natural death, and eighty thousand rupees in case of accidental death which has now been increased sixty thousand rupees and one lakh and fifty thousand rupees respectively. In case of total disability or loss of both eyes or limbs or one eye and one limb amount to be paid is one lakh and fifty thousand rupees but if there is a loss of one eye or one limb this amount will be seventy thousand rupees. In addition to the sum assured, scholarship of rupees three hundred per quarter per child is also provided to the weaver children studying in 9th to 12th standard. This benefit is restricted up to the two children. This scheme is contributory in its nature with a contribution from Government of India and the weavers. It implemented through life Insurance Corporation of India. The annual premium amount is fixed at three hundred and thirty rupees per member, out of which one hundred and fifty rupees is contributed by the government and eighty rupees has to be contributed by weaver. The LIC also make a share of one hundred rupees in this scheme. A subsidy of seven thousand rupees for rural workers and nine thousand rupees for urban

is extended by the Government under the work shed cum housing scheme. The enrolment of weaver under this scheme during 2014-15 was 5.75 lakhs and during 2015-16 (up to 30.11.2015) the enrolment of weavers is 2.2 lakhs.\footnote{Annual Report 2015-16 P.197 (Ministry of Textiles, Government of India)}

The above mentioned schemes have good objectives. One component of the scheme is to make financially enable the weaver community to access the best of health care facility in the country and second component enhanced insurance cover to the handloom weavers in the case of natural as well as accidental death and in cases of total or partial disability. Both component of the scheme are good in design and may be very beneficial for unorganised workers if they are expended to cover all type of unorganised workers. Further the amount payable to the beneficiary under the scheme should also be increased up to at least three times.

\section*{4.18.5 Handicraft Artisans Comprehensive Welfare Scheme}

The Constituents of the abovementioned scheme are, (a) Rajiv Gandhi Shilpi Swasthay Bima Yojana (b) Bima Yojana for Handicraft Artisans;

\textbf{(a) Rajiv Gandhi Shilpi Swasthay Bima Yojana}

It was initially launched on a pilot basis in March 2007 to cover fifty thousand artisans under the scheme.\footnote{Jain Varinder, \textit{The Long Road To Social Security}, Inventory on Contingent Social Security Schemes for Unorganized Worker in India. p.24 (2010).} This constituent is considered as the major constituent of the Handicraft Artisans’ Comprehensive Welfare Scheme, This scheme aims at enhancing the financial affordability of the
artisan’s community to avail the best of health care facility in the country. All craft persons will be eligible to be covered under the Scheme. It covers not only the artisan’s but also their family members, it provides for cashless OPD & IPD facility, a total medical cover of thirty thousand rupees for IPD and seven thousand and five hundred rupees for OPD. Except for OPD, the scheme shall align with Rastriya Swasthay Bima Yojana in respect of remaining parameters such as IPD treatment and final limits decided per package for IPD treatment by Ministry of health and Family Welfare. Where Rastriya Swasthay Bima Yojana is already under implementation and States have consented, the Rajiv Gandhi Shilpi Swasthay Bima Yojana will be implemented by Ministry of health and Family Welfare. Besides this it provides a personal accidental cover of one lakh rupees for insured artisan. Under the pattern of financial assistance seventy five percent share of the total premium of shall be paid by Central Government and it shall be ninety percent in case of Jammu Kashmir and North East Region States. The State has to pay twenty five percent share of the total premium (ten percent in case of Jammu Kashmir and North East Region States.). Artisan’s share will be rupees thirty for registration. In case of non-consenting states, the State share will also be contributed by government of India. The above sharing

93 OPD means (Out Door Patient).
94 IPD means (In Door Patient).
95 Government of India, Artisans Comprehensive Welfare Scheme p.4 (Scheme for 12th five year plan 2012-17), Office of the Development Commissioner (Handicrafts), (Ministry of Textiles).
formula will be subject to any modifications made by Ministry of Health and Family Welfare in Rastriya Swasthaya Bima Yojana Scheme. The Central Government premium contribution amount will be released by Development Commissioner (Handicraft) to State Nodal agencies upon receipt of intimation from Ministry of Health and Family Welfare. In States or Districts, where Rastriya Swasthaya Bima Yojana is not being implemented or where the States have not consented, the scheme will be implemented by Development Commissioner (Handicraft) through the service provider selected on basis of ‘open tender’ and will be subject to the guidelines issued by Development Commissioner (Handicraft). The Development Commissioner (Handicraft) will monitor the progress of scheme through its various field offices and by convening meetings with the State Governments and Insurance Company from time to time97.

(b) **Bima Yojana for handicraft artisans or Aam Adami Bima Yojana**

The objective of Aam Admi Bima Yojana for handicraft artisans is to provide life insurance protection to the handicraft artisans. According to the scheme all craft persons will be eligible to be covered under the ‘Aam Admi Bima Yojana for Handicrafts artisans’ subject to the conditions laid down by the LIC from time to time. The present age for benefits is 18 to 59 years. The persons living below poverty line or marginally above the poverty line are eligible for this

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97 Government of India, *National Handicraft Development Programme* p.18
Office of Development Commissioner (Handicrafts) (Ministry of Textiles).
http://www.handicrafts.nic.in/Anex-III01_01.2016
scheme. It is a three partite scheme in which Government of India contributes two hundred and ninety rupees, artisans contribute eighty rupees and LIC contribution is one hundred rupees.

Handloom Weavers’ Comprehensive Welfare Scheme and Handicraft Artisans Comprehensive Welfare Scheme both are identical in nature and benefits and insurance providing schemes. The only difference is that one deals with handloom workers and other deals with handicraft workers. Both these schemes should be amalgamated in one by extended its coverage to all unorganized workers.

4.18.6 **Pension to Master Craft Persons**

During the 11th five year plan, this activity was perused as separate non plan scheme. This scheme is proposed to support the artisans during their old age. Under this scheme the senior master craft persons (above 60 years of age) who are recipient of Shilp Guru Awards, National Awards or Merit Certificates or State Awards in handicraft are provided the pension benefit so as to unable them for disseminating their knowledge to the younger generation. To get the benefit under this scheme the annual income of the artisan’s will not be thirty thousand rupees or more. In addition to it the applicant should not be a recipient of similar financial assistance from any other source under this scheme. Under this scheme assistance from the Government may be either in the form of monthly allowance or lump sum grant or both. In no case
however, the assistance shall exceed the limit of two thousand rupees per month\textsuperscript{98}.

The overview of the scheme suggests that this is a great attempt to protect the shrinking heritage of art. But the ceiling on the pension amount makes it undervalue. The amount of pension should be increased up to such a level by which an artisan can enjoy his life with a dignity by fulfilling his needs at the sundown of life.

\textbf{4.18.7 National Scheme for Welfare of Fishermen and Training and Extension}

The Central Government launched a National Scheme for the welfare of fisher men in 2006-07 by amalgamating two schemes namely Janta Personal Accident Policy (started in 1983) and National Welfare Fund for Fisherman (started in 1986-87). The main objective of this scheme is to provide (a) the amenities like housing, drinking water, community hall etc. for fishers (b) to facilitate better living standards for fishers and their families (c) social security for active fishers and their dependent and (d) economic security. This scheme is fully centrally sponsored and during 12\textsuperscript{th} plan period (2012-2017), the following benefits have been targeted for fisherman across the country. Firstly the additional 4600 houses per year will be built for fishermen. Secondly 3.5 Lakh fishermen will be covered under Serving Cum Relief Scheme every year and thirdly an additional coverage of three Lakhs fishermen under the Group Accident Insurance will be made.

\textsuperscript{98} Artisans Comprehensive Welfare Scheme, p.6 (Scheme for 12th five year plan 2012-17), Office of the Development Commissioner(Handicrafts), Ministry of Textiles, Government of India.
Fourthly nearly 6400 fishermen will be skilled under the Training and Extension Programme. Thus this scheme has four components (i) group accident insurance for active fisherman (ii) development of model fishermen (iii) saving cum relief and (iv) training and extension. The amount of assistance and compensation to the fisherman, seventy five thousand rupees, for construction of house, forty thousand rupees, one lakh rupees in case of partial permanent disability and two lakh rupees in case of death or total disability is given.

This scheme is also a kind of social assistance scheme on the matter of housing, insurance and skill development of fishermen. This scheme is for a specific category of unorganised workers and not for all categories of unorganized workers.

4.18.8 Jan Shree Bima Yojana

Jan Shree Bima Yojana was started by replacing the Social Security Group Insurance Scheme and Rural Group Life Insurance Scheme. This scheme came into being on 10th August 200299. The objective of this scheme was to provide life insurance cover to rural and urban poor who lived below the poverty line or on the marginal line, Provided that these workers must be belonged to at least one of the 45 occupations/ occupational groups. These occupations are; Kotwal, Cobblers, Carpenters, Rural Poor, Urban Poor, Agriculturist, Salt Growers, forest workers, Sheep Breeders,

Transport drivers, Plantation workers, Power loom Workers, Hamals, Fishermen, Lady tailors, Beedi Workers, Toddy tappers, Safai Karamcharis, Handicraft artisans, Handloom weavers, Coconut Processors, Construction Workers, Physically handicapped self-employed, Printing, Textiles, Sericulture, Wood artisans, Wax products, Paper products, Hilly area women, Toys manufacturer, Brick-kiln workers, Tendu leaf collectors, Food stuffs as khandsari/ sugar, Fire crackers workers, Transport Karamcharis, Self Help Group Women, Primary Milk Producers, Rubber & Coal products, Leathers and tannery workers in remote hilly areas handloom & khadi weavers, rickshaw pullers/auto drivers, Aanganwari workers or helpers. Benefit under this scheme was available in case of natural death, thirty thousand rupees, on accidental death, seventy five thousand rupees, on total permanent disability due to accident seventy five thousand rupees and on partial permanent disability due to accident is thirty seven thousand and five hundred rupees. This scheme was implanted through Life Insurance Corporation of India. It urged for the payment of an annual premium of two hundred rupees per member, fifty percent of the premium was to be paid by the beneficiary or the nodal agency or the State whereas the other fifty percent was met from the social security fund contributed by government of India. The eligibility criterion urged that the beneficiary should be in the age group of 18to 60 years.

Due to identical structure and nature of the schemes with Aam Admi Bima Yojana this scheme has been merged in Aam Admi Bima Yojana and presently it does not exist.
4.18.9 Aam Admi Bima Yojana

With a view to providing death and disability cover to rural landless household the Aam Admi Bima Yojana was launched on 2nd October 2007. It provides insurance cover to the head of the family of one earning member of the family of rural landless household. The benefits under this scheme are limited to thirty thousand rupees in case of natural death, and seven thousand and five hundred rupees for death or disability due to accident and thirty seven thousand and five hundred rupees, for loss of one eye or limb in an accidental. Scholarship is also provided to a maximum of two children of the beneficiary studying between 9th to 12th standard at the rate of one hundred per month for each child. The premium is charged under this scheme is two hundred rupees per annum, of which fifty percent is subsidized by the Central Government and remaining is contributed by State Government. But in 2013 the Government of India has been merged the Jan Shree Bima yojana into Aam Admi Bima Yojana with effect from 1st Jan. 2013, because both schemes have the same characteristics, similar structure of benefits, premium and target group and both are administered by Life Insurance Corporation of India.  

Presently only Aam Admi Bima Yojana is in existence.

Like other schemes this is also an insurance providing scheme. So it would be beneficial for Government as well as unorganized workers that all the insurance schemes enlisted

100 Government of India, Press Information Bureau, Cabinet 30 August 2007, Age of the house hold should be between 18 to 59 years.

in schedule I to the Act should be amalgamated in one form and the benefits under these schemes should be extended to all categories of unorganised workers. The insured amount should also be raised up to at least twenty lakh and the entire premium for insurance should be paid by the Central Government instead of the beneficiary.

4.18.10 Rashtriya Swathya Bima Yojana

It is the most important and popular social security scheme after Aam Admi Bima Yojana. It was launched by Ministry of Labour and Employment, Government of India on 1st October 2007. It has emerged as a major National Health Insurance Initiative containing the vulnerability of poor household during medical emergencies. It provides support to the BPL families in case of hospitalization. The benefits are limited to five members and insurance cover up to the thirty thousand rupees, per family, per annum. This scheme envisages the issuance of a smart card to the beneficiary so as to facilitate cash less transactions. It also ensures the portability of the health benefits as the scheme empowers the below poverty line families to make their choice for the hospitals as they can avail their health benefits in the empanelled hospitals throughout the country. It was implemented by the State Governments through insurance companies and premium is shared by the Central and State in the ratio of 75:25. Moreover, it also covers the transportation costs (actual with maximum limits of one hundred rupees per visit) within overall limits of one thousand rupees. Since 1st April, 2015, the Scheme Rashtriya Swasthya Bima Yojana
(RSBY) has been transferred to Ministry of Health & Family Welfare on “as is where is” basis. Ministry of Health & Family Welfare is administering and implementing the scheme through a decentralized implementation structure at the State level. It has been expanded to cover other defined categories of unorganised workers, covering like building and other construction workers registered with the welfare boards, licensed railway porters, street vendors, MNREGA workers who have worked for more than 15 days during the preceding financial year Beedi Workers, Domestic Workers, Sanitation Workers, Mine Workers, Rickshaw Pullers, Rag Pickers and Auto/Taxi Driver.

The Compendium of social security schemes shows that the Rashtriya Swasthya Bima Yojana (RSBY) are the alone schemes that has been extended to the various categories of unorganized workers. However there are some other categories like self employed workers, wage workers and sex workers, migrant workers are still excluded to the scheme. One thing that is clear from the study of all schemes is that these schemes are only kind of social assistance and not of social security. Further all schemes have a pre existence before the Act. So there is a doubt on schemes that they can provide the social security to unorganised workers which has been sought by the Act. It is only re packing of the old schemes.
4.19 **Funding of Central and State Government’s Schemes under the Act**

The Act contains the provisions, on the matters relating to the funding of the Central Government Schemes and State Government Schemes, for social security to unorganized workers. But the social security schemes for unorganized workers mentioned in Schedule I of the Act, are pre existing schemes, and were in existence before the commencement of the Act. Therefore their funding had been decided by the government prior to this Act. The funding of these schemes is mostly based on tripartite model, in which the Government, Insurance Agency and Beneficiary pay the premium for the scheme in a certain ratio. The Act provides that (1) any scheme notified by the Central Government may be (i) Wholly funded by the Central Government; or (ii) partly funded by the Central Government and partly funded by the State Government; or (iii) Partly funded by the Central Government, partly funded by the State Government and partly funded through contributions collected from the beneficiaries of the scheme or the employers as may be prescribed in the scheme by the Central Government. The Act also prescribes the funding structure of State Government Schemes, it provides that (1) Any scheme notified by the State Government may be (i) wholly funded by the State Government; or (ii) Partly funded by the State Government, partly funded through contributions collected from the

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102 Section 4, UWSSA, 2008.
103 Section 7, UWSSA, 2008.
104 Section 4(1), UWSSA, 2008.
beneficiaries of the scheme or the employers as may be prescribed in the scheme by the State Government. (2) The State Government may seek financial assistance from the Central Government for the schemes formulated by it. (3) The Central Government may provide such financial assistance to the State Governments for the purpose of schemes for such period and on such terms and conditions as it may deem fit. Thus this Act does not provides concrete source for funding of the schemes and it plays only an advisory role to tell that, what scheme should be centrally funded, fully or partially and what schemes should be State funded, fully or partially. So the Act has the closed eyes on the matter of, the funding of the welfare schemes, and it leaves the entire matter at the whim of the governments concerned. However the Act states that the “Every scheme notified by the Central Government shall provide for such matters that are necessary for the efficient implementation of the scheme including the matters relating to, (i) scope of the scheme; (ii) Beneficiaries of the scheme; (iii) resources of the scheme; (iv) agency or agencies that will implement the scheme; (v) redressal of grievances; and (vi) any other relevant matter.”

This Act contains ten schemes in schedule I, which are discussed above in this chapter. After a careful study and analysis of each scheme a conclusion can be drawn that these schemes are not providing a complete range of social security,

105 Section 7(1), UWSSA 2008.
106 Section 7 (2), UWSSA, 2008.
107 Section 7(3), UWSSA, 2008.
these are only insurance and pension schemes. These schemes can be enjoyed by workers either on old age (means after the age of sixty years) or on accident, or on the accidental death of the bread earners of the workers family. The amount payable to the beneficiary under these schemes is very meager. No schemes provide full employment guarantee. Full employment means, income security, job security, proper wages, sickness benefits, maternity benefit, invalidity benefits, old age, survivals and other contingent benefits. In addition to these shortcomings, these schemes are suffering from other various lacunas. These are as follows:

(a) The existing social protection schemes do not offer a minimum social security package to all workers.

(b) There is a limited allocation of financial resources for social schemes.

(c) None of the schemes have a universal coverage and does not cover all types of unorganized workers. Most of the schemes are applicable only on BPL families. All these schemes are pre existing schemes and there is only a re-packing of them in the Act.

(d) The current benefits under these schemes are not delivered through a Single-Window Arrangement. There are multiple agencies involved in running the schemes like Ministry of Finance (for pensions), Ministry of Labour (for Health Insurance through the Rashtriya Swasthya Bima Yojana), Ministry of Health and Family Welfare (for Maternity Benefits), Ministry of Textiles (for Handloom Weavers’ Comprehensive Welfare Scheme). There should be a Single Window Arrangement for
drafting and administering the social security scheme for all categories of unorganized workers. To achieve the aims of the Act, it is essential to develop an institutional mechanism by which the benefits of social security can be delivered equitably. The Government should have an aim to create a single architecture that can ultimately cover the entire unorganized sector. There should be single-window drafting of all schemes in order to eliminate the inefficiencies associated with multiple drafting centers and to enable ease of access for the beneficiary. Further, there is a need to simplify the process of accessing benefits by providing the beneficiary with a unified authentication process that can be used across all social security schemes. For this purpose National Social Security Board which is constituted under the Act, should be empowered for these functions and all the social security scheme must be owned and governed by the National Social Security Board. National Social Security Board should be responsible for: (i) defining and designing of the scheme (ii) providing clarity on roles and responsibilities of the various stakeholders (iii) implementation design (iv) monitoring and evaluation (v) record keeping (vi) financial management (vii) capacity building (viii) research and development and (ix) standardization of processes. The identical responsibilities should be imposed on the State Social Security Boards for the same purpose at State level.
Since social security is meant to provide minimal levels of social security, it is only appropriate that if it be made available to all citizens of India. The coverage under all the schemes must be targeted at every eligible individual, and not just heads of households, because this would be fundamentally inequitable and result in outcomes such as discrimination against women in the provision of social security. As per Government statistics only six percent workers of total strength of unorganized workers are beneficiaries under the Act. Presently there is no clear, fool-proof and cost effective mechanism available to identify and separate the organized sector and unorganized sector workers today. The UWSSA sought to work around this problem by requiring individuals to register themselves as unorganized workers with the District Administration by self-declaration. Social security schemes for the unorganized sector should be implemented in the entire country only after a careful evaluation under a pilot project. Thus it is proposed that a rigorous, scientific impact evaluation be conducted by independent researchers before social security schemes is scaled up to be delivered across the country.

4.20 **Miscellaneous powers of the Centre and State Government under the Act**

The Act deals with the power of Central Government to give directions to (i) the National Social Security Board; or (ii) the Government of the State or the State Social Security Board of that State, in respect of matters relating to the
implementation of the provisions of this Act\textsuperscript{109}. The Act also states that no proceedings of the National Social Security Board or any State Social Security Board shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the National Social Security Board or, as the case may be, the State Social Security Board\textsuperscript{110}. This Act empowers the Central Government to make rules on any of the matters relating to the implementation of the Act\textsuperscript{111}. According to the Act 'The Central Government may, by notification, make rules to carry out the provisions of this Act\textsuperscript{112}. In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: -

(a) The contributions to be collected from the beneficiaries of the scheme or the employers under sub-section (1) of Section 4.

(b) The number of persons to be nominated, the term of office and other conditions of service of members, the procedure to be followed in the discharge of functions by, and the manner of filling vacancies of, the National Board under sub-section (4) of Section 5.

(c) The rules of procedure relating to the transaction of the business at the meeting of the National Board under sub-section (6) of Section 5. (d) The allowances for attending the meetings of the National Board under sub-section (7) of Section 5.

\textsuperscript{109} Section 11, UWSSA, 2008.
\textsuperscript{110} Section 12, UWSSA, 2008.
\textsuperscript{111} Section 13, UWSSA, 2008.
\textsuperscript{112} Section 13(1), UWSSA, 2008.
(e) The form for making an application for registration under sub-section (2) of Section 10.

(f) Any other matter which is required to be, or may be, prescribed\textsuperscript{113}.

This Act also gives power to make rules to State Governments. It provides that:

(1) The State Government may, by notification, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

- (a) the number of persons to be nominated, the term of office and other conditions of service of members, the procedure to be followed in the discharge of functions by, and the manner of filling vacancies of, the State Board under sub-section (4) of Section 6;

- (b) The rules of procedure relating to the transaction of business at the meetings of the State Board under sub-section (6) of Section 6;

- (c) The allowances for attending the meetings of the State Board under sub-section (7) of Section 6;

- (d) The contributions to be collected from the beneficiaries of the scheme or the employers under sub-section (1) of Section 7;

\textsuperscript{113} Section 13 (2), UWSSA, 2008.
(e) The form in which the application for registration shall be made under sub-section (2) of Section 10; and

(f) Any other matter which is required to be, or may be, prescribed\(^\text{114}\).

Further the Act states that every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule. The situation is similar in case of State, provisions of the Act states that every rule made under this Act by State Government shall be laid, as soon as may be after it is notified, before the State Legislature\(^\text{115}\).

Nothing contained in this Act that shall affect the operation of any corresponding law in a State providing welfare schemes which are more beneficial to the unorganised workers than those provided for them by or under this Act\(^\text{116}\).

\(^{114}\) Section 14, UWSSA, 2008.

\(^{115}\) Section 15, UWSSA, 2008.

\(^{116}\) Section 16, UWSSA2008.
The Act also confers power on Central Government to remove difficulties. It says that (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty, provided that no such order shall be made under this section after the expiry of a period of two years from the commencement of this Act, if any order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament117.

4.21 Sum up

Moving with the International Labour Organization’ approach and Constitutional commitment towards labour welfare, the Indian Parliament enacted a legislation named “The Unorganized Workers Social Security Act 2008”. This Act came into force on 30th December 2008 with the sole aim of providing social security for unorganized workers. This is the first legislation of its kind that deals with the unorganized workers in country. This legislation is seeing by the Government as high horse. But the unorganized workers are not seeing any rays of hopes in the Act due to the defective and ambiguous provisions of the Act. The Act empowers the Central Government and State Governments to formulate and notify, from time to time, suitable welfare schemes for unorganized workers on matters relating to social security on the recommendations and advise of the National Social

117 Section 17, UWSSA2008.
Security Board and State Social Security Boards Respectively. Thus the Act limits the powers of the National Social Security Board and State Social Security Boards as they are performing only advisory role under the Act. This Act contains ten schemes in schedule I, a careful study of each scheme depicts that these schemes are not providing a complete range of social security as these are only insurance and pension schemes. These schemes can be enjoyed by workers either on old age (means after the age of sixty years) or on accident, or on the accidental death of the bread earners of the workers family. The amount payable to the beneficiary under these schemes is very meager. In addition to these shortcomings, these schemes are suffering from other various lacunas Limited allocation of financial resources and poor implementation. None of the schemes have a universal coverage and does not cover all types of unorganized workers. Most of the schemes are applicable only on BPL families. All these schemes are recycled or re-packed schemes and are not sufficient to provide social security to unorganized workers. The current benefits under these schemes are not delivered through a Single-Window Arrangement. There are multiple agencies involved in running of the schemes, like Ministry of Finance (for Pensions), Ministry of Labour (for Health Insurance through the Rashtriya Swasthya Bima Yojana), Ministry of Health and Family Welfare (for Maternity Benefits), Ministry of Textiles (for Handloom Weavers’ Comprehensive Welfare Scheme). Representations of unorganised workers in National Social Security Board and State Social Security Boards are not adequate and qualifications laid down for the
members of these Boards are not certain. On the matter of qualification the Act only talks about ‘eminence’ which is very vague and uncertain term. Enforcement and redressel mechanism, which are essential elements for any legislation, is also absent from this Act. The definitional clauses of the Act are not proper as the ‘social security’ is not defined in the Act. In short on the analysis and evaluation of the Act, it can be said that this Act itself has a need of major surgery before treating the prolonged deprived, exploited and most neglected class of unorganised workers on matter of social security.