CHAPTER- VIII

GOVERNMENT INFLUENCE IN ENSURING SOCIAL SECURITY PROTECTION TO UNORGANISED SECTOR WORKER- A REVIEW

8.1 Introduction

Freedom from want and security against economic fear is one of the fundamental needs of any country.\(^1\) The Government has over the years both before and after independence has taken a number of initiatives to extend social security cover to the working class. As early as in 1885, the Indian Fatal Accidents Act was passed to provide compensation to the workers for fatal employment accidents. But under Common Law principle workman’s claim was allowed only if he was able to establish negligence on the part of the employer. This was costly, difficult and long drawn process. Moreover, the employer could take the plea of doctrine common employment wherein he was not liable to pay damages in case the injury is resulting from the default of a fellow workman. Next, followed the Employees’ Compensation Act, 1923.\(^2\) The Act was based on employer’s liability principle. The Act provided for compulsory payment of

\(^1\) DR. V.G. Gowswami, "Labour and Industrial Laws" published by Central Law Agency 7th ed. at 381.
\(^2\) Originally short title of this Act was The Workman’s Compensation Act, 1923 which was changed to The Employees’ Compensation Act, 1923 by the Workmen’s Compensation (Amendment) Act, 2009.
compensation to the workers in cases of employment injuries independently of any negligence or breach of duty on the part of employer. Again in pursuance of on the recommendations of the Royal Commision on Labour (1931), the British Government enacted the Employers Liability Act, 1938 with the same objective. After independence the Government of India passed the Employees State Insurance Act, 1948 which was based on contributory principle. The Act shifted burden of providing social security benefits from the employer to a statutory authority created there under. Later years, in pursuance of mandate provided under the Constitution, the Government took further steps to provide provident fund benefits to industrial workers under the Employees' Provident Funds Act, 1952 and gratuity benefits under the Payment of Gratuity Act, 1972. But these Acts were made keeping in mind the organised sector workers who have the privilege of getting regular income. Further, some efforts were made to provide some social security benefits to unorganised sector workers by bringing sector specific Acts such as the Dock Workers (Regulation of Employment) Act, 1948, the Beedi and Cigar Workers (Conditions of Employment) Act, 1966 etc. But, by and large majority of unorganised sector workers are outside the coverage of social security Acts.
However, in view of globalization and due to the reasons of contractualisation, subcontracting, feminization of workforce and outsourcing, the strength of the unorganised sector workers is considerably increased. They are exposed to various types of deprivations, in connection with social security protection despite being in the era of Constitutionalism which commits itself to the concept of Welfare State.

As a Socialist State, Government has accepted the responsibility for providing and ensuring ‘social security’ to all its citizens without any discrimination. The principal aim of socialism is to eliminate inequality of income and status and to provide a decent standard of living to the working people. The Directive Principles of State Policy directs the State to promote the welfare of the people by securing social, economic and political justice and strive to minimise inequalities in income, status, facilities and opportunities to individuals engaged in different vocations. The State shall also direct its policy towards securing all citizens the right to adequate means to livelihood. The State shall make within the limits of its economic capacity effective provision for securing the right to work, to education and to public assistance in case of unemployment, old age, sickness and

3 Article 38 of the Constitution of India.
disablement. The State shall endeavor to secure by suitable legislation, all workers living wage, conditions of work ensuring a decent standard of life.

Apart from these commitments, under Article 21 of the Constitution, the State, guarantees every person ‘Right to life’. Time and again the Highest Court of the land has also made it clear that concepts of social justice and social security are integral parts of the general theory of the Welfare State. For example in *Olga Tellis v. Bombay Municipal Corporation* the Supreme Court has held that, the right to life enshrined in Art 21 of the Constitution includes the right to livelihood and deprivation of the means of livelihood would denude the meaning and content of Right to Life. In *Life Insurance Corporation of India v. Consumer Education and Research Centre* the Court observed that social security has been assured under Article 41 and Article 47 and it imposes a positive duty on the State to raise the standard of living and to improve public health. Further, the court held “it would thus be a well-settled law that the Preamble, Fundamental Rights and Directive Principles accord right to livelihood as a meaningful

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4 Article 41 of the Constitution of India.
5 Article 43 of the Constitution of India.
7 (1985) 3 SCC 545.
8 AIR 1995 SC 181.
life. Social Security and disablement benefits are integral schemes of socio-economic justice to the people.\footnote{Id.}

In *Air India Statutory Corporation v. United Labour Union*\footnote{1997 LLR 296.} the Supreme Court held that the workmen have a fundamental right to life. Meaningful right to life springs from the continued work to earn their livelihood. The right to employment, therefore, is an integral facet of right to life.\footnote{Id.}

Combined reading of these provisions and decisions of highest court of land elaborates upon Constitutional guarantee of dignified life to every individual irrespective of his earning capacity. These rights entail the obligation on the part of the State to realize, as expeditiously as possible, various substantive rights like right to food, education, work, health etc. The right to social security is indispensable part of integrated thread to ensure decent life. The purpose of social security is to give individuals and families the security that their level of living and quality of life will not be conditioned upon social and economic
eventuality. It stipulates guarantee of minimum level of standard of living to everyone in case of distress and contingency.\textsuperscript{12}

As a step towards realisation of these Constitutional mandates the Government of India constituted High Power Committees from time to time to study confrontations faced by labour class in India. It is very essential to have a glimpse of the Reports by these Commissions in order understand the problems of working class and efforts by the Government of India in resolving these issues.

8.2 The National Commission on Labour (1967)

The first the National Commission on Labour was constituted in December 1966 under the Chairmanship of Dr. P.B. Gajendragadkar. The Commission was set up to study and review the conditions of labour since 1947, the then existing labour legislations and the living conditions of workers. The Report is comprehensive document that touches among other things the issues of industrial relations, labour welfare, social security, minimum wage, wage fixation machinery and employment of women and

children. The Commission had made detailed study of unorganised sector workers and one Chapter in the Report is exclusively devoted for the same.

The Commission, while elucidating the meaning of unorganised labour observed that ‘unorganised labour’ cannot be identified by a definition but could be described as those who have not been able to organise in pursuit of a common objective because of constraints such as casual nature of employment, ignorance and illiteracy, small size of establishments with low capital investment per person employed, scattered nature of establishments, and superior strength of the employer operating singly or in combination.\(^{13}\)

In this report the Commission has dealt with different “illustrative categories” of unorganised sector workers like contract labour including construction workers, casual labour, labour employed in small scale industry, hand loom / power loom workers, bidi and cigar workers ,employees in shops and commercial establishments, sweepers and scavengers, workers in tanneries and other unprotected labour.\(^{14}\)

While analysing problems of unorganised labour the Commission remarked that “Government have hitherto paid inadequate attention to

\(^{13}\)

\(^{14}\)
Id.
unorganised workers despite the fact that they constitute a fair proportion of those who produce goods and provide services. In the absence of proper organisations, unorganised labour not able to establish their reasonable claims and secure proper working conditions. As a result the benefits of labour legislation have not reached rural and unorganised labour. The Minimum Wages Act, 1948 was the first attempt at statutory regulation of wages, and working conditions of labour employed in the sweated trades. Labour engaged in these employments, being unorganised, had weak bargaining power and had been deprived of reasonable wage and working conditions. Apart from the ineffectively implemented Minimum Wages Act, they do not have any other legislative protection. The Factories Act, 1948 and the Industrial Disputes Act, 1947, which contain specific and detailed provisions for items within their purview, were not designed to meet the conditions of and requirements in unorganised industries and employments. ¹⁵ In this context, the Commission made following recommendations:

a) Conduct detailed surveys from time to time to understand the problems of the different categories of unorganised labour.

¹⁵ Id.
b) Legislative protection by the state for unorganised/unprotected labour.

c) Simplification of legislative and administrative procedures applicable to small establishments.

d) Expediting education and organisation in the field of unorganised labour.

e) As there is no alternative to the existing implementation machinery, what exists should be reinforced, and the inspection system should be strengthened.

f) Steps for the protection of workers against middlemen, and development of self-help through co-operatives. Co-operatives should pay adequate wages and bonus, and give employment opportunities to the underemployed and unemployed among them.\textsuperscript{16}

Even though, the Government of India in pursuance of this Report made some amendments to the Employees State Insurance Act, 1948, the Employees’ Provident Funds and Miscellaneous Provisions Act, 1952 and

\textsuperscript{16} Id. at 434-435.
the Payment of Gratuity Act, 1972 the same has not made much impact on
the lives of unorganised sector workers.

8.3 The National Commission on Self-Employed Women and Women
in Informal Sector (1988)

In 1987, the National Commission on self-employed Women was
constituted under the chairmanship of Smt. Ela Bhatt by the Government of
India to with two important tasks (i) to examine the status of self employed
women with special reference to their employment, health, education, social
status, and constraints that affect productivity and (ii) to assess the impact
of various labour laws, especially those on maternity benefits and health
insurance on self-employed women. Later, the Commission enlarged its
scope to include women workers in the unorganised sector.

In the Report, the Commission noted that there is flagrant violation of
statutory provisions regarding payment of wages, safety regulations, medical
facilities etc. hence there is need for much more stringent observance of
existing labour laws with deterrent penalty clauses. The Commission also
recommended simplification of judicial procedures, particularly to enable
unorganised workers to obtain legal remedies without undue harassment.
The Commission strongly felt that any law, however well conceived, would not benefit women workers unless they have a major hand in the implementation of the laws. Hence, it recommended for the establishment of 'Tripartite Boards' with equal number of representation from employers, workers and government to regulate implementation of legislations.\(^\text{17}\)

The Commission taking note of health related problems of women workers and stressed that no solution to the problems of women at work would be complete without taking into account their reproductive function, which can be effectively facilitated through maternity and childcare.\(^\text{18}\) The Commission observed that though childcare facilities were provided under various labour laws, these were not being implemented and had in fact lead to the retrenchment of women workers as the employers wanted to avoid their statutory responsibility. Hence, an extended system of childcare throughout the country is necessary. The Commission remarked that in case of unorganised sector, large number of workers are either home based workers or where employer is not identifiable. In such situations, the State should shoulder the responsibility of providing maternity benefits. The Commission also recommended for constitution of Central Fund for


\(^{18}\) Id, at 301.
financing welfare and social security measure for women workers. The Commission also stressed for a comprehensive health and safety Act specific to the needs of women workers.19

For improving the economic status of poor women working in the informal sector of the economy, the Commission recommended to devise strategies which would enhance their ownership and control over productive assets.

For domestic workers, the Commission recommended the introduction of a system of registration. It felt that, in view of the existing trends of exploitation, it was extremely important to fix a minimum wage, and to pass legislation to regulate conditions of employment, social security and security of employment. The Commission observed that the rates of minimum wage are low and have to be increased keeping in view the requirements of the woman worker and her family. Piece rates must be so fixed as to enable women workers to earn for 8 hours of work a wage equal to the time-rated.20

19 Id.
20 Id. at 282.
Further Commission noted that though 51% of the working women are engaged in farm labour, their contribution is unrecognised. Women's access to land ownership is extremely limited and women have no say in decision-making. Commission recommended that the contribution of women to agriculture should be recognized by policy makers and reflected in the country's agricultural policy and programmes, with adequate resource allocation and orientation for women producers. Women involved in seasonal agriculture should be helped to diversify into horticulture, fruit processing, vegetable growing, animal husbandry and dairying.

8.4 The National Commission on Rural Labour (1991)

In 1987, the National Commission on Rural Labour is constituted under the Chairmanship of Dr. Hanumantha Rao to look into the working conditions of this vulnerable section of our society and the implementation of social security legislation for their protection.

The Commission did a detailed study of the issues of unorganised labour and observed that most of the social security benefits basically catered to the needs of well-organized urban work force but they constitute just one-tenth of the total work force. They are protected by one or more
schemes through a social insurance approach on a contributory basis. There is hardly any conventional scheme of social security to cover the unorganised sector comprising of agricultural labour, small peasants, artisans and the landless rural labour who constitute the most disadvantaged section of our society. In the unorganised sector, the workers are engaged either in wage employment or self-employment, which are basically irregular or seasonal and the earnings/incomes are very low. This is reflected in nearly one third of the population living below poverty line having no income security to meet their basic minimum needs. The unorganised worker with irregular employment is not in a position to claim any conventional social security.\textsuperscript{21} The commission recognised that in such a situation, a better Social Security which could be offered may be the security of employment and means for adequate income.

The Report emphasized importance of rural labour in the economy of the country and suggested a multidimensional strategy to lift agricultural workers from the vortex of poverty. First, an infrastructure need to be created for irrigation, drainage, flood control and rural electric supply, without which it would be impossible to increase agricultural productivity

and employment. Second, it was essential to enforce minimum wages and social security. Third, it was necessary to introduce central legislation for agricultural labour providing security of employment, prescribed hours of work, payment of prescribed wages and machinery for dispute settlement. It was essential to introduce a system of registration and to provide identity cards to these workers. Fourth, the Commission favored introduction of Central legislation for agricultural labour providing security of employment, prescribed hours of work, payment of prescribed wages and machinery for dispute settlement etc. It also recommended for constitution of welfare fund to make provisions for maternity leave, old age pension, and compensation in case of employment injuries to agricultural labour.22

The Commission also recommended for amendments to the Minimum Wages Act, 1948 like deleting the provision for exemption clause, doing away with provision for minimum number of workers for the applicability of the Act and shifting of the burden of proof to the employers. The Commission also proposed for the creation of tripartite body at each district head quarters to monitor the administration of Minimum Wages Act and a conciliatory machinery at village level. The Commission also made

following recommendations for various other categories of unorganised workers:

a) **Handloom Workers**: Weavers were to be trained in new methods of weaving technology, adequate financial assistance was to be provided and marketing for handloom products was to be improved. The Commission recommended a legislation on the lines of the Tamil Nadu Handloom Workers Act, 1981.

b) **Beedi Workers**: All workers engaged in beedi making, either at their homes or elsewhere should be provided with identity cards. The contract system should be abolished, and initiatives to form the workers' own cooperatives should be encouraged. A change in the Beedi Cigar Workers Act 1966 was suggested, in order to establish unambiguously the employer-employee relationship in the case of home workers.

c) **Construction Workers**: The Commission recommended that the recruitment of workers through middlemen should be checked to enable construction workers to get their wages in full.

d) The Commission also suggested measures aimed at improving brick kiln workers, toddy tappers, fishermen, leather workers and sweepers.
e) **Migrant Labour**: Commission suggested some changes in the existing Inter State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979. The definition of migrant workmen should be expanded to cover all migrants, whether they come on their own or through contractors. The contractor should be made liable for the breach of the Act either by him or by the sub contractor.

The National Commission on Rural Labour also made specific recommendations for various categories of workers including handloom workers, beedi workers, construction workers, brick kiln workers, toddy tappers, sweepers, fishermen, leather workers.

However the report of the Commission has not made impact on the minds of Government and the Report was confined to the Government shelves.

**8. 5 The National Commission on Labour (2002)**

For the first time in the history of Independent India, the thought for providing social security protection to unorganised sector workforce has
emerged with appointment of the Second National Commission on Labour
On 24th of December 1998, under the Chairmanship of Shri Ravindra Verma. The important tasks assigned to the Commission were i) to suggest rationalization of existing laws relating to labour in organised sector and ii) to suggest an umbrella legislation for ensuring minimum level of protection to the workers in the unorganised sector.  

The Commission made detailed study of existing social security mechanisms for the unorganised sector workers under the Central and the State legislations and observed that most of the Labour Laws are relevant only to the organised sector. The laws which are sector specific and applicable to certain employments are too inadequate to give protection or welfare for the vast majority of workers in the unorganised sector. The schemes of Welfare funds and Welfare Boards are also confined to a few States and specific categories of workers in the unorganised sector. So there is need for new legislation that will have general applicability and will provide essential protection. The Commission also remarked that as unorganised sector is very vast covering diverse employments, it is not wise and logical to legislate separately for each employment or vocation. Further,

24 Id. at 731.
the Commission proposed for an umbrella type of law for the unorganised sector which would provide welfare protection to all workers in the unorganised sector.25

According to the Commission unorganised sector workers comprises of those employed in small establishments outside the purview of current social security legislations, those employed in casual and intermittent basis without any security of employment and self employed workers.26 The Commission made detailed study of and existing social security mechanisms for the unorganised sector workers under the Central and the State legislations. The Commission expressed that “the vast majority of the unorganised labour is working as home based and self employed workers in India. A large section is also employed in smaller establishments which are left out of the purview of the existing labour legislations. Even in case of sector specific social security legislations like the Building and Other Construction Workers’ (Regulation of Employment and Conditions of Service) Act, 1996, the Beedi and Cigar Workers (Conditions of Employment) Act, 1966 imposes conditions like of minimum period of work, employer-employee relationship as eligibility to claim benefits under

25 Id. at 733.
26 Id. at 920 - 921.
the Acts which preclude most of the unorganised workers from the coverage of the Act.\textsuperscript{27} The Commission recommended that there is need for creating welfare funds for providing social security benefits to the workers in the unorganised sector for each category of major employments namely agriculture, building and other construction workers, beedi industry, handloom workers, fishing workers, toddy tapping, head load workers, railway porters, agarbatti workers, rag pickers, rickshaw pullers, salt workers, carpet and leather workers. As regards other minor employments in the sector, the Commission suggested to bring them under an umbrella type of legislation with common welfare fund.\textsuperscript{28} In this regard the Commission proposed umbrella legislation namely ‘Unorganised Sector Workers (Employment and Welfare) Bill’ for the protection of workers in the unorganised sector.

The Commission in pursuance of task entrusted to it submitted a comprehensive Report, to ensuring social security mechanism for the unorganised workers in the country. One unique feature of the Report is that the commission included the category of self employed workers of variegated nature within the term unorganised sector worker and prepared a

\textsuperscript{28} \textit{Id.} at 920-921.
list of one hundred twenty two categories of unorganised sector workers in
the country.

8. 5. 1 Proposed Umbrella Legislation for Workers in the Unorganised
Sector - The Unorganised Sector Workers (Employment and Welfare) Bill

The main objective of the Bill was to consolidate and amend the laws
relating to the regulation of employment and welfare of workers in the
unorganised sector and to provide protection and social security to these
workers. The proposed Bill covered issues relating to social security and
welfare, regulation of employment and conditions of employment and
conditions of work as well as promotion of livelihoods. The Bill covered
employments both in agriculture and non-agricultural sectors which were
listed in the Schedule of the proposed draft Bill. The basic approach of the
Bill was to recognise and protect all types of unorganised sector workers
regardless of industry, occupation, work status and personal characters.

The Bill provided for Central Board at the Center, State Board at the
State level, district level Boards at the district level and Workers’
Facilitation Center at local level for the administration of the Schemes. The
Bill recommended employment based Boards at the State levels which were
assigned the responsibility of ensuring payment of minimum wages to workers as prescribed under the law. In relation to the self-employed workers the State Board was to take suitable measures to ensure that they earn fair income, receive benefits of social security, training etc. The Bill made provisions for social security benefits like old age protection, invalidity, sickness, medical, employment injury, maternity and child care. The welfare measures include minimum wages, working hours, health, safety, grievance redressal, loans for housing, infrastructure facilities, skill development and marketing facilities.

However, the report of the Commission was subjected to sharp criticism from the stake holders, which probably might have compelled the government to move in other direction. It is pertinent to note that the negative reaction from the Central Trade Union Organisation was pertained to the Commissions finding relating to the first term of Reference rather than its finding on the issues relating to the unorganised sector workers in the country.29

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8. 6 The National Commission on Enterprises in Unorganised Sector (2006)

The United Progressive Alliance Government (UPA Govt) in furtherance of its commitment towards realization of National Common Minimum Programme which provided that “the UPA government is firmly committed to ensure the welfare and well-being of all workers, particularly those in the unorganised sector who constitute ninety per cent of our workforce. Social security, health insurance and other Schemes for such workers like weavers, handloom workers, fishermen and toddy tappers, leather workers, plantation labour, beedi workers etc. will be expanded”, constituted the National Commission on Enterprises in Unorganised Sector in 2004. The Commission worked under the chairmanship of Late Prof Arjun Sengupta and submitted Report ‘Social Security for Unorganised Workers’ to the Government of India in the year 2006.

The Commission had the mandate to review the status of unorganized sector in India, suggesting policy to govern the unorganized sector, identifying ways to promote the informal sector, suggesting employment strategy to focus on the informal sector, reviewing labour laws

for the informal sector, reviewing the social security system available for 
labour in the informal sector and make recommendations for expanding their 
coverage."\(^{31}\)

The Commission after deliberating various alternatives defined 
unorganised sector as "all unincorporated private enterprises owned by 
individuals or households engaged in the production and sale of goods and 
services and operated on a proprietary or a partnership basis and employing 
less than ten persons."\(^{32}\) Further, the Commission defined unorganised 
workers as "unorganised workers are all those who are working in the 
unorganised sector and the workers in the formal sector without any 
employment security and social security provided by the employer."\(^{33}\) On 
the basis of this definition the Commission estimated the number of 
unorganised workers in the informal sector in India as on 1\(^{st}\) January 2000 as 
340 million and total number of informal workers in the economy (i.e. the 
number of informal workers in the informal sector plus informal workers in 
the formal sector) are 362 million. The above figures constituted 86 % and 
91 % of the total economy of the country.\(^{34}\)

\(^{31}\) Id. at 2.
\(^{32}\) Id., at 7.
\(^{33}\) Id. at 10.
\(^{34}\) Id. at 9.
The Commission made in depth examination of social security problems confronted by informal workers and found that they are of two kinds. First is because of 'deficiency or capability deprivation' in terms of inadequate employment, low earnings, low health and educational status etc. Second is because of 'adversities' in the sense absence of fall back mechanisms (safety nets) to meet contingencies like ill health, accident, death, old age etc.35

The Commission observed that even though a number of social security programmes are implemented by the Central and the State Governments in the form of Welfare Funds and social security schemes, their total coverage is estimated to be about 21 million workers. In other words only about six percent of the unorganised /informal workers are covered under some social security measures. Further, small and large NGOs in the country provide some social security cover to about 2 per cent of the workforce in the unorganised sector.36 The Commission noted that informal workers who constitute 91 percent of workforce have limited or no formal social security cover which increase their vulnerability during times of illness, old age, unemployment and untimely death. The absence of social

36Id at 100.
security mechanisms is a critical factor in the worsening of the condition of these households many of which are already poor. The Commission strongly felt that despite significant contribution to the national income, workers in the informal economy are continuously exposed to various types of risks and frequently face crisis situations. So there is a crying need to provide a measure of 'protective social security' for all the unorganised workers in the country.

8.6.1 The Unorganised Workers' Social Security Bill, 2006

In this regard the Commission proposed a Bill titled 'The Unorganised Workers' Social Security Bill, 2006'. The Bill provided to cover all workers in the unorganised sector with monthly income of Rs 6500 and below. This will include self-employed workers (including small and marginal farmers), wage workers and home-based workers. In addition, informal workers in the organised sector without any social security cover (such as Badli workers and casual workers) will also be covered. The Commission estimated that the Bill will cover about 90 per cent of the poorer informal sector workers, who do not have enough means to ensure security for themselves.

37 Id at 99.
One of the unique features of the Bill is the Scheme called National Minimum Social Security providing universal social security to all eligible unorganised workers. The Scheme is based on insurance-cum-state assistance model. The Bill provided for registration of every unorganised worker who has completed 18 years for social security benefits. Each registered worker shall be entitled Social Security Cards with unique identification numbers. The registered workers, employers and the Government need to pay Re. 1/- each per day as contribution towards the Fund constituted under National Minimum Social Security Scheme. This way a sum of Rs.1095/- will be available per worker per year. These contributions are utilized as premiums for insurance to cover health benefits, maternity benefit, sickness allowance, life insurance; and old age security and Provident Fund-cum-unemployment insurance benefits.

The Bill also provided for constitution of National Social Security Board and a fund at national level and State Social Security Boards and a Fund at state level for the administration of Scheme. Each State will have its administrative mechanism with organisations at the local level (village and townships) designated as Workers Facilitation Centers to assist workers for registration, etc.
National Minimum Social Security Scheme is a substantive step towards provision of social security to informal sector workers. The Scheme is hailed as the first ever-comprehensive social security scheme for the unorganised sector in India. Through this for the first time in the history of India 300 million unorganised workers are offered a right based Social security benefits which are legally enforceable. Unlike many other earlier social security schemes floated by Central and State Governments, this scheme makes all unorganised sector workers eligible for the social security, irrespective of their occupation and duration of employment. Yet another important aspect is that, this provides a national floor level social security for all the informal workers throughout the country.

However, the difficulty can be viewed in matters of levy of the monthly contributions from the unorganised workers in view of the fact that the wide spread scattered nature of their livelihood activities. There is also issue of the illiteracy and ignorance that might creep in to this effort.

8.7 The Report on Comprehensive Legislation for Minimum Conditions of Work and Social Security for Unorganised Workers (July 2007)


The first Bill is applicable to the unorganised agricultural workers (all agricultural wage workers excluding those eligible for protection under the Plantation Workers Act, 1948 and all marginal and small farmers). The second Bill is applicable to the non-agricultural workers in the unorganised sector as well as unorganised workers in the organised sector who are not protected by existing laws applicable to that sector. Although most of the conditions of work specified under the Agricultural Workers Bill and the Unorganised Non-agricultural Workers Bill are similar, the two separate Bills have been provided to take care of specific issues being faced by the two different sets of workers.40

Each of these Bills provided provisions for regulation of conditions of work and social security. Chapter II of the Bills deals with conditions of work of the unorganised non agricultural and agricultural workers respectively. Chapters III to VIII of the Bills relate to Social Security, Constitution of the Social Security Funds, Constitution, Powers and Functions of the National and State Social Security and Welfare Boards, provision for registration and implementation of the Scheme. The provisions with respect to the National Social Security Scheme, the National Social Security Fund and the National Social Security and Welfare Boards are identical in the two Bills and are based on the earlier proposals of the Commission to the government. The Dispute Resolution mechanism for settlement of disputes is specified in Chapter IX of the respective Acts.

The National Commission for Enterprises in the unorganized Sector (NCEUS) published a Report which advocated a comprehensive social insurance-based, government run programme covering health benefits (hospitalization, sickness allowance, maternity benefits, life insurance, and provident fund, with provision for non contributory pensions for poor elderly workers). The Report set an ambitious task of covering 300 million workers over five years, that is, 60 million individuals per year. The NCEUS Report has been criticized for its limited appreciation of the administrative tasks
involved in covering such a large number of individuals in a short period, a lack of detailed actuarial projections of various insurance schemes and the vague nature of financing sources, and their sustainability.  

On the whole, after the initiation of liberalization policy, the Government of India, constituted four High Power Commissions during the period 1999-2006. All the four Commissions have made appropriate findings and recommendations. However, the Report submitted by the National Commission on Enterprises in Unorganised Sector (2006) and the proposed draft Bills annexed in the Report led to wider deliberations to arrive at a definite conclusion to provide social security benefit protection to the unorganised workers in the country. The Government, after being silent for nearly two years, enacted the much awaited Act, the Unorganised Sector workers' Social Security Act in 2008. This is the time for us to examine the details of the Unorganised Sector workers' Social Security Act, 2008. A detailed investigation of the Act is made in the next Chapter to ascertain whether the State is really committed to the concept of Welfare State as envisaged in the Constitution of India.

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