ANNEXURE -II

Social Security in Unorganized Sector

The unorganized sector workers are those who have not been able to pursue their common interests due to constraints like casual nature of employment, invariably absence of definite employer employee relationship, ignorance, illiteracy, etc. They are generally low paid and outside the purview of any type of social security. The government has enacted certain legislations for the protection of these workers.

Minimum Wages Act, 1948

This Act primarily aims at safeguarding the interests of the workers engaged in unorganized sector who are vulnerable to the exploitation due to illiteracy and lack of bargaining power. The Act binds employers to pay the minimum wages to the workers as fixed under the statute by the state and central governments from time to time under their respective jurisdictions. This Act does not discriminate between male and female workers. No standard is laid down by the Act for fixing the minimum wage and hence, norms recommended by Indian Labour Congress, 1957 are taken into account for fixing minimum wages. The decision in The Workmen v. Reptakose Brett and Co. Ltd Reptakos and Co. by Supreme Court is another guideline. It is decided by apex court that the children's education, medical requirement, minimum recreation, provision for old age, marriage etc., should further constitute 25% of the minimum wage and used as a guide in fixation of minimum wages. Section 12 of the Act prevents employers from paying less than minimum wages and Section 13 protects workers from exploitation by fixing the number of hours in a working day.

In order to have a uniform structure all across the country in wage structure, concept of National Floor Level Minimum Wage was mooted on the basis of recommendations of National Commission on Rural Labour in 1991. The Central government revised the national minimum according to the
recommendations of different working groups from time to time.

Apart from this Act, the social security coverage to the unorganized sector workers are through some Central legislations including Welfare Funds. These funds are financed out of cess levied on manufactured products. The welfare funds are utilized for implementing welfare schemes for these workers coming under specific legislations. According to survey conducted by NSSO in 1999-2000 about 1.76 crores of workers are employed in construction activities. The Building and Other Construction Workers (regulation of Employment and Conditions of Service Act, 1996 and The Building and other Construction Worker’s Welfare Cess Act, 1996 are the legislations covering the welfare of the workers in the construction activities.

Apart from these welfare schemes, there are other social insurance schemes like Janshree Bima Yojna- a group insurance scheme implemented by LIC- is available to persons between age of 18 and 60 years and are living below or marginally above poverty line. This scheme Provides death insurance of Rs. 30000/ and accidental benefits for partial and total disability. Universal Health Insurance Scheme is another heavily subsidized scheme for BPL families covering reimbursement of hospitalization and personal accident insurance cover. Apart from these there are insurance scheme for handloom weavers, fishermen, etc.

The Unorganized Sector Worker’s Social Security Scheme,2004 envisages 3 benefits: old age pension at the rate Rs.500 /- per month on attaining the age of 60 years; personal accidents insurance cover of Rs. one lakh; and the coverage will be under Universal Health Insurance Scheme.

The common characteristic of all these new programmes is to provide jobs to large masses in unorganized sector and thus to assist to acquire security by themselves. This is a good trend but only acceptable for a short duration. The state is constitutionally bound to provide social security and it has the responsibility to accept social security as a right of citizen rather than managing things in an ad hoc manner as they do now.
Another reality is that most of the employees working in the above mentioned establishments are informal workers as under ‘contract system’. Hence the benefits are out of reach to them.

**The Unorganized Sector Workers’ Social Security Act, 2008**

The study will be incomplete, if the analysis of the Act is omitted. The Act primarily aims at providing social security and welfare of unorganised sector workers. The words “unorganised sector” in the Act hold an exhaustive definition which can be made applicable to all sections apart from organised sectors where social security measures already exist. Unorganised sector is defined in the Act as, “home based worker, self employed worker, or a wage worker in the unorganised sector.” It really includes almost every category other than organised sector. Chief Justice K.G. Balakrishnan aptly highlighted the objectives of the Act in the following words:

“Needless to say, the millions of unorganised workers are in dire need of a stable and reliable social security regime. The Unorganised Workers’ Social Security Act contemplates the delivery of benefits to unorganised workers in instances of sickness, disability, maternity, unemployment, old age and the death of a family’s bread winner. The Act has defined ‘Unorganised 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 land-holdings. Hence, the legislative intent is to expand the social safety net as widely as possible.”

The benefits proposed are (1) life and disability cover (2) health and maternity benefits (3) old age protection generally and any other benefit as determined by Central Government. The Act envisages that the state government 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 machinery for implementing these schemes will consist of a National Social Security Board and State-level Social Security Boards. 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 decentralisation, the actual registration of workers will be performed by Worker Facilitation Centres (WFC) which could be run by Panchayati Raj institutions, trade unions or recognised NGOs. The main drawback of the Act is that social security has not been defined within the Act and "social security" and "welfare" are used interchangeably.

Another criticism against the Act is that, it lacks of fund allocation. The fund allocation is now according to the discretion of Central or State Governments. Another flaw in the Bill is that the social security provided by the Act is not at all right based i.e., the Act does not recognise social security as a right. It merely provide for the social security schemes without any permanent funding. Moreover the Board envisaged in the Act is only an advisory body and not an empowered body. This Act does not provide any security as expected to unorganised sector. Hence the Act is to be strengthened by adequate amendments in this sphere to rectify the above defects.