Chapter – 5
SOCIAL SECURITY FOR UNORGANIZED SECTOR WORKERS IN INDIA

I. INTRODUCTION

Social security is both a concept as well as a system. It represents basically a system of protection of individuals who are in need of such protection by the State as an agent of the society. Such protection is relevant in contingencies such as retirement, resignation, retrenchment, death, disablement which are beyond the control of the individual members of the Society. Men are born differently, they think differently and act differently. State as an agent of the society has an important mandate to harmonise such differences through a protective cover to the poor, the weak, the deprived and the disadvantaged.¹

Social security has evolved over a period of time. In the primitive societies it was mankind’s prime need to protect himself from the vagaries of nature like earthquakes, famines or even finding shelter and food in his day to day life. Societal Groups were formed to confront and brave such hazards which turned into community living and formation of villages and also bringing in the concept of a family. These institutions provided whatever limited social security those societies needed and served them adequately.²

The concept of social security is now generally understood as meaning protection provided by the society to its members through a series of public measures against the economic and social distress that otherwise is caused by the stoppage or substantial reduction of earnings resulting from sickness, maternity, employment injury, occupational diseases, unemployment, invalidity, old age and death.³

³ Id.
Several and successive attempts have been made in the past to address the multifarious problems faced by the workers in the unorganized sector through legislative as well as programme oriented measures. Even though these measures have not succeeded in achieving the desired object partly on account of the ignorance, illiteracy and lack of unionization of workers on the one hand and the resource constraints of the state on the other, some of the programmes have provided a good setting through which the hopes and expectation of the workers in the unorganized sector have been considerably aroused.4

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. The unorganized workers are also generally low paid and a majority of them are devoid of any of the social security benefits like life and medical insurance, health care, maternity benefits, and old age pension etc. which are available to the workers in the organized sector under the Employees State Insurance Act, 1948; the Employees Provident Funds and Other Miscellaneous Provisions Act, 1952 etc.5

Social security comprises mainly two elements job/work and income securities. That is why social security is linked to work or economic security. Work security is as important as income security. Inadequate income resulting from unprotected and irregular employment, is a direct threat to their lives and families. Their income needs to be protected against the vagaries of economy. Therefore, socially relevant minimum wages should be guaranteed. In addition to income security, certain other basic elements of social protection are also essential towards work security. These are health

4 Supra note 1 at 5.
5 Supra note 2 at 57.
care, including maternity benefits (pre-natal and post-natal care), shelter and education.⁶

The unorganized nature of the workforce, dispersed nature of operational processes and lack of institutional back up reduces their bargaining power and their ability to take full benefits from the Acts and legislations enacted for their benefits. The growth of informal, unprotected work with shrinking formal employment compels the workers to bear an increasing direct burden of financing social needs, with adverse effects on their quality of life. That burden may also undermine the capacity of enterprises to compete with global economy.⁷

Social Security for the unorganized sector is justified primarily on grounds of equity and social justice. The unorganized sector is characterized by irregular employment, unstable income, prevalence of piece rate wages and absence of any legal protection with regard to income, employment, health and safety. Further, in view of the low skill levels of this workforce, there is almost no scope for them to move vertically in the occupational ladder to increase their financial situation.⁸

II. MAIN CHARACTERISTICS OF UNORGANIZED LABOUR

Unorganized labour means those who have not been able to organize themselves in pursuit of common objectives on account of constraints. The Labour Commission too portrayed a similar picture and contributory factors for the unorganized workforce in India.⁹ It includes petty occupations, nature of employment, specially distressed categories and service categories of workers. Following are the main characteristics of unorganized labour.¹⁰

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⁶ Ibid at 16.
⁷ Supra note 1 at 36.
a. **Uncertainty and Irregularity of Wage Payment**

Informal workers earn their income either through wages or through earnings arising from self employment. Several studies have pointed out the uncertainty, irregularity and inability to secure even minimum wages for the wager employed and the inadequacy of earnings for meeting the basic household needs of the majority of the self employed, if not all.

b. **Contractual Work Status**

All the casual workers and a vast majority of regular workers in the unorganized sector in India do not have a written work contract. The contractual status of informal sector workers changes very little with duration of employment with an overwhelming majority continuing to be of temporary status.

c. **Long Hours of Work**

Long working hours in the unorganized sector beyond the labour and regulatory norms are common in India. There does not seem to be much difference in the hours of work by gender, implying that most of the men as well as women are exposed to long hours of work in factory and construction jobs etc.

d. **Poor Physical Environment**

The physical environment at work place is an important aspect of a worker’s well being. Better physical conditions such as space, lighting, temperature, hygienic facilities etc. are critical for enhancing the productivity of workers as well as providing some basic comforts and healthy living at the work place which this section lacks.

e. **Deplorable Housing and Sanitation Conditions**

Housing and Sanitation Conditions are precarious in most of the industries in the unorganized sector. Open sewage drainage systems, overflowing drains etc. lead to unhygienic living and working conditions of workers.
f. Dangerous and Hazardous Work

Certain unorganized sector industries such as underground mines, ship breaking, building construction and fireworks etc. are dangerous and full of hazard. The workers sustain injuries in many industries in this sector.\footnote{\textit{Id.}}

III. NATURE OF SOCIAL SECURITY FOR UNORGANIZED WORKERS

As the word social security conveys different meanings to different people in different contexts, it is necessary to define the components that comprise social security. The essential components of social security that need consideration are as follows:

a. Life and Disability Cover

Protection of life comes on top of all priorities in all situations. Everyone is exposed to the risk of untimely death due to disease or accident. The exposure in unorganized sector is all the more because of sub-standard living and deficient care. Whereas addressing these reasons like improving living standards is desirable on one hand, it is absolutely essential on the other hand to provide some sort of financial assistance for the family to carry on till emerging of alternatives.\footnote{Report of the Working Group on Social Security for the 12th Five Year plan, 8-11, 2007-12.} The concept of life insurance addresses this issue, but the workers in un-organized sector can hardly afford individual life insurance policy for following reasons:

- Financial inadequacies.
- Not literate enough to understand concept of insurance and choose the right one.
- Sustaining the protection over a period of time.

The need for life insurance cover for this segment is more than those in organized sector because some or other sort of protection and benefit is available to them through employers and other institutions. What is required for this segment is a very simplistic module covering
the basic element of risk cover made available to them at a very low cost. Such protection may be made available to them either from government funds, or on contribution basis. Sometimes a person is left with partial or total disability as a result of accident. This not only affects his income earning capacity, but also enhances expenses on account of treatment. While detailed health care may be addressed separately, some financial protection in terms of disability cover in case of partial or permanent disability should be made an essential component of social security for all.13

b. Old Age Income Security

A person makes up his living by skilled or unskilled work according to his capacity, background and opportunities available in the market. His capacity to do physical work goes on diminishing with increase in age and a stage comes when he can do no more of physical work or becomes unemployable on account of old age. In joint family system, some family support was in-built. But with disintegration of joint family system, old age quite often becomes real curse, if his financial needs are not taken care of.14

c. Health Care and Maternity Benefit

Without a proper system of health care, country can not go long on the path of progress and development. At present, health care system is outside the reach of unorganized workers and poor people. Some beginning in this area has been made by way of Rastriya Swasthya Bima Yojna which provides cash-less health care to workers and poor people. The same can be made more broad based covering people at the mass level with a matching increase in the network of medical facilities and hospitals so that the same is within the reach of people.15

Both central and state governments have been taking initiatives for the welfare and social security of the workers in the unorganized

13 Id.
14 Id.
15 Id.
sector. The Ministry of Labour & Employment is implementing welfare schemes for certain categories of unorganized sector workers like beedi workers, cine workers and certain non-coal mine workers.\textsuperscript{16} 

**IV. PROTECTION UNDER CONSTITUTIONAL LAW**

Labour protection for the working people in India is available under various laws enacted by the Parliament as well as the State Legislatures. The Preamble of the Constitution of India guarantees its citizens justice- social, economic and political; liberty of thought, expression, belief, faith and worship; equality of status and opportunities and fraternity, dignity of individual and dignity of nation.\textsuperscript{17}

The Constitution of India enacted upon independence of the country though does not provide for compulsory institution of social security for all, yet, its Directive Principles of State Policy contained in Part IV has theme idea in this regard explicitly\textsuperscript{18}. Its provisions are for right to work and education; public assistance in cases of unemployment and of social security; just and humane conditions of work; maternity relief; living wage and working conditions capable of ensuring decent standard of life, workers participation and management.\textsuperscript{19}

**V. SOCIAL SECURITY UNDER LABOUR LAWS**

Social security to the workers would involve providing or framing such schemes or services or facilities and amenities, which can enable the workers to lead a decent minimum standard of life and having financial security to fall back upon in the event of loosing job for whatsoever may be the reason in the circumstances beyond their

\textsuperscript{16} Supra note 2 at10. 
\textsuperscript{17} Ibid at 5. 
\textsuperscript{18} The Constitution of India, 1950, Article 38 to 47. 
\textsuperscript{19} Ibid at Articles 41 to 43.
control. The workers must be given the wages and other services, which will enable them and the members of their family to lead a decent life. Thus social security is an instrument for social transformation and good governance.\textsuperscript{20}

The logical starting point is to begin with the segment which contributes most significantly to the country’s GDP i.e. the labour force. Provisioning for social assistance to this group can enhance their ability to contribute to the nation. Providing the necessary material and emotional security can enhance efficiency and productivity. The cover enable workers to tide over periods of unemployment, sickness, accident or death while in employment coupled with the promise of an assured monthly income to them and their family in old age.\textsuperscript{21}

The Government has enacted certain legislations for the protection of these workers. Some of the legislations applicable to the workers in the unorganized sector include the Employees Compensation Act, 1923; the Maternity Benefit Act, 1961, the Building and Other Construction Workers (RECS) Act, 1996 and the Building and Other Construction Workers Welfare Cess Act, 1996 etc.\textsuperscript{22}

Social security provides a self-balancing different schemes of social insurance or social assistance from public funds or proper combination of both. In case of any contingency, leading to physical incapacity to work during that contingency, any effective scheme of social protections must take care of workers income and medical care.\textsuperscript{23} In these different schemes employers and employees contribute to provide assistance for running the schemes. The Government also makes a small contribution in different schemes like Employees Provident Fund Pension Scheme, Employee’s Insurance Scheme,

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\textsuperscript{20} Supra note1 at 16.  \\
\textsuperscript{21} Supra note11 at10.  \\
\textsuperscript{22} Supra note 2 at 5.  \\
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Maternity Benefit and The Coal Mines Provident Fund under which employees are compensated under the social insurance. The existing social security arrangements in the unorganised sector can be broadly classified into four groups. These are central legislations, social insurance, social assistance and public service.

In India, a number of social security legislations have been enacted to promote the condition of the labour keeping in view the development of industry and national economy of unorganized sector. Social security legislation in India grew with the growth of industry. The main legislations that provide social security to unorganized sector workers are:


There shall be levied and collected, as a cess for the purposes of this Act, on all mica, in whatever state, exported from the territories to which this Act extends a duty of customs at such rate, not exceeding six and one-quarter per centum ad valorem, as may from time to time be fixed by the Central Government by notification in the Official Gazette provided that until the 1st day of April, 1947, the rate of duty so fixed shall not exceed two and one-half per centum ad valorem.

The Fund shall be applied by the Central Government to meet expenditure incurred in connection with measures in the opinion of the Central Government necessary or expedient to promote the welfare of labour employed in the mica mining industry. The cost of measures for the benefit of labour employed in the mica mining industry directed towards the improvement of public health and sanitation, the prevention of disease, medical facilities, water supplies and facilities for washing, educational facilities, standards of living, including housing and nutrition, the amelioration of social conditions and recreational facilities, transport to and from work, family welfare, including family planning education and services. The grant to a State

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24 *Id.*
25 Act No. 22 of 1946.
Government, a local authority or the owner, agent or manager of a mica mine, of money in aid of any scheme approved by the Central Government for any purpose for which the Fund may be utilized.\textsuperscript{27}

b. \textbf{Seamen's Provident Fund Act, 1966}\textsuperscript{28}

As the problems of seamen working on board the ships for truncated periods are of a special nature, it was considered desirable to enact a separate Provident Fund legislation for them. Accordingly, the Seamen's Provident Fund Act Was passed in 1966. The Act generally follows the pattern of the Employees' Provident Funds Act, 1952. Every seaman engaged under the Merchant Shipping Act, 1958, excluding certain categories of officers and other employees, were covered by the Scheme under the Act. About 50,000 seamen are currently covered under the Scheme. Every employer covered under the Act is required to contribute to the Fund for the period from July, 1964 to July, 1968 at the rate of 6 per cent of the wages paid and thereafter at the rate of 8 per cent in respect of each seaman employed by him; every such seaman has also to contribute an equal amount to the Fund.\textsuperscript{29}


An Act to provide for the levy and collection of a cess on limestone and dolomite for the financing of activities to promote the welfare of persons employed in the limestone and dolomite mines for the standard of welfare facilities to be provided by owners of limestone or dolomite mines. The Fund shall be supplied by the Central Government to meet the expenditure incurred in connection with measures which, in the opinion of that Government, are necessary or expedient to promote the welfare of persons employed in the limestone or dolomite mines and in particular to defray the cost of measures for

\textsuperscript{27} \textit{Ibid} at Section 3.
\textsuperscript{28} Act No. 4 of 1966.
\textsuperscript{29} \textit{Supra} note 8 at 174.
\textsuperscript{30} Act No. 62 of 1972.
the benefit of persons employed in the limestone or dolomite mines directed towards the improvement of public health and sanitation, the prevention of disease, medical facilities, water supplies, facilities for washing, educational facilities, standards of living including housing and nutrition, the amelioration of social conditions and the provision of recreational facilities; family welfare, including family planning education and services.\textsuperscript{31}

d. The Iron Ore, Manganese Ore and Chrome Ore Mines Labour Welfare Fund Act, 1976\textsuperscript{32}

It provides for the financing of activities to promote the welfare of persons employed in the iron ore mines, in any work, in any office, canteen or creche situated within the precincts of such mine, for any welfare, health, sanitary or conservancy services or any watch and ward duties at any place situated within such premises or vicinity, not being a place occupied by any residential building.\textsuperscript{33}

e. The Beedi Workers Welfare Fund Act, 1976\textsuperscript{34}

An Act to provide for the financing of measures to promote the welfare of persons engaged in beedi establishments. There shall be formed a Fund to be called the Beedi Workers Welfare Fund and there shall be credited thereto, an amount which the Central Government may, after due appropriation made by Parliament by law in this behalf, provide from and out of the proceeds of cess credited under section 4 of the Beedi Workers Welfare Cess Act, 1976, after deducting the cost of collection as determined by the Central Government under this Act, any income from investment of the amount credited under the Act referred to in clause (a) and any other monies received by the Central Government for the purposes of this Act.\textsuperscript{35}

\textsuperscript{31} The Limestone and Dolomite Mines Labour Welfare Fund Act, 1972, Section 5 (2).
\textsuperscript{32} Act No. 61 of 1976.
\textsuperscript{33} The Iron Ore, Manganese Ore and Chrome Ore Mines Labour Welfare Fund Act, 1976, Section 2.
\textsuperscript{34} Act No. 62 of 1976.
\textsuperscript{35} The Beedi Workers Welfare Fund Act, 1976, Section 3.
The Fund shall be applied by the Central Government to meet the expenditure incurred in connection with measures and facilities which, in the opinion of that Government, are necessary or expedient to promote the welfare of persons engaged in beedi establishments and in particular to defray the cost of measures for the benefit of such persons directed towards the improvement of public health and sanitation, the prevention of disease, medical facilities, water supplies and facilities for washing, educational facilities, housing and recreational facilities including standards of living, nutrition and amelioration of social conditions.\footnote{Ibid at Section 4.}


This fund is financed out of proceeds of cess levied on manufactured beedis, export of mica, consumption of limestone and dolomite and consumption and export of iron ore, manganese ore and chrome ore and feature films respectively. It is used to run welfare schemes of cine workers. This fund provides social security cover to the cine workers.

\textbf{g. The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996}\footnote{Act No. 27 of 1996.}

The building and other construction workers constitute second largest segment of the unorganized sector in India. According to the sample survey about 25.71 million workers are employed in the construction activities.\footnote{The Report of National Sample Survey Organization, Government of India, 2004-05.} The building and other construction workers are one of the most vulnerable segments of the unorganized sector workers in India. Their work is of temporary nature, the relationship between employer and employee is temporary, working hours are uncertain. The building and other construction works are characterized by inherent risk to the life and limb of workers. The construction workers are basically unskilled, migrant, socially
backward, uneducated with low bargaining power. Provisions of labour laws like Employees Compensation Act, 1923 are applicable to building and other construction workers. The Government have enacted this legislation for the construction workers.40

Every state government is required to constitute State Building and Other Construction Workers Welfare Board. The Board is mandated to carry out the immediate assistance to a beneficiary in case of accident, make payment of pension to the beneficiaries who have completed the age of sixty years, to sanction loans and advances to the beneficiary for construction of houses, pay premia for Group Insurance Scheme of the beneficiaries, give financial assistance for the education of children, meet medical expenses for treatment of major ailments, to make payment of maternity benefit to the female beneficiaries, to make provisions and improvement of such other welfare, measures and facilities as may be prescribed.41

h. The Building and Other Construction Workers Welfare Cess Act, 199642

This legislation provides for regulating the employment and conditions of service, safety and health and welfare measures for the construction workers. A Welfare Fund at the State level can be constituted by way of levy of cess @ 1% on all constructions costing more than ₹10 lakh.43 The Fund is to be used for giving financial assistance to the families of beneficiaries in case of accident, old age pension, housing loans, group insurance, children's education, medical and maternity benefits, etc. The States of Kerala, Pondichery, Delhi, Madhya Pradesh, Gujarat, Uttarakhand and West Bengal have started its implementation. Tamil Nadu has been implementing its own legislation. Kerala, the first state to start its implementation has

40 The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996
41 Ibid at Section 18.
42 Act No. 28 of 1996.
43 The Building and Other Construction Workers Welfare Cess Act, 1996, Section3
created a corpus of ₹300 crore (app.).\textsuperscript{44} Panjab has also started implementation.

The Building and Other Construction Workers Welfare Cess Act, which was passed in 1996, had mandated all states to form a welfare board and collect 1 percent of the construction cost from employers and developers. The money was to be used for the welfare of the labourers.\textsuperscript{45}

\textbf{i. The Mahatma Gandhi National Rural Employment Guarantee Act\textsuperscript{46}, 2005\textsuperscript{47}}

MGNREGA refers to the world’s largest welfare program, run by the Government of India. It is a job guarantee scheme for rural Indians. It was enacted by legislation on 25 August 2005. The scheme provides a legal guarantee for at least 100 days of paid employment in every financial year to adult members of any household willing to do unskilled manual work related to public work at the statutory minimum wage. If they fail to do so the government has to pay the salary at their homes.\textsuperscript{48} This Act was introduced with the aim of improving the social security of semi or unskilled rural people of India, irrespective of whether or not they fell below the poverty line.

It aims at enhancing the livelihood security of the people in rural areas by guaranteeing hundred days of wage employment in a financial year, to a rural household whose members volunteer to do unskilled manual work.\textsuperscript{49} About 56 lakh workers have so far been getting benefit under the Act which also provides an insurance cover of ₹25,000 in case of death of a worker due to accident.\textsuperscript{50}

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\textsuperscript{44} Available at http://www.tehelka.com/rs-11127-cr-collected-for-welfare-of-construction-labourers-87-of-it-is-lying-unused/ (visited on December 14, 2013).
\textsuperscript{45} \textit{Id.}
\textsuperscript{46} The law was initially called the National Rural Employment Guarantee Act (NREGA) and was renamed with the prefix “Mahatma Gandhi” on 2 October 2009.
\textsuperscript{47} Act 47 of 2005.
\textsuperscript{48} Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), 2005, Section 4
\textsuperscript{49} \textit{Id.}
\textsuperscript{50} \textit{Supra} note 2 at 62.
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The CAG reports that the mismanagement of NREGA works resulted in a declining trend in the number of works completed since the law was enacted, with only 1 out 4 works completed in 2012. This reportedly affects the realization of the primary objective of the Act which is to provide livelihood security and to create durable assets.\textsuperscript{51} Despite the approved 13 million tasks worth $25 billion, only 4 million tasks are completed and $18 billion is unutilized an efficiency of only 30 per cent in implementation. According to Section 5(4) of the MGNREGA Operational Guidelines, minimum wage component in the total outlay must be 60 per cent.\textsuperscript{52}

\textbf{j. The Unorganized Sector Workers Social Security Act, 2008}\textsuperscript{53}

The Government launched the ‘Unorganized Sector Workers’ Social Security Scheme, 2004’ in January 2004 on pilot basis in 50 districts covering all States. The scheme envisages three benefits i.e. old age pension at the rate ₹500 per month on attaining the age of 60 years, personal accident insurance cover of ₹one lakh and coverage under Universal Health Insurance Scheme. There was provision of contribution by the Worker, Employer and the Central Government. The Worker’s contribution was ₹50 p.m. (18-35 Yrs) and ₹100 p.m. (36-50 Yrs). The Employer was required to contribute ₹100 p.m. in both the categories. Self-employed workers in the age group of 36-50 years to contribute employer’s share also. The Government’s contribution was 1.16\% of the wages of the workers towards pension scheme as available in the organized sector. EPFO was to issue Unique Social Security Number (Card) to each registered worker. Only 3500 workers who were mostly self-employed could be enrolled. It was observed that the Scheme was not financially viable because it has no statutory backing and was voluntary in nature. Further, contribution from the employers was also not forthcoming. The

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\textsuperscript{51} Comptroller and Auditor General of India, 5, (2013).
\textsuperscript{52} Ministry of Rural Development, 24, 2005.
\textsuperscript{53} Act 33 of 2008.
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scheme has since been closed because the Unorganized Sector Workers Social Security Act, 2008 has been enacted.

The National Advisory Council (NAC) forwarded a draft Bill namely, “the Unorganized Sector Workers Social Security Bill, 2005. In the meantime, the National Commission for Enterprises in the Unorganized Sector (NCEUS)\footnote{Commission was appointed by the Government of India on September 20, 2004 of chairmanship of Arjun Sengupta to review the status of unorganized sector in India including the nature of enterprises, their size spread and scope and magnitude.} also drafted two bills i.e. (i) Unorganized Sector Workers (Conditions of Work & Livelihood Promotion) Bill, 2005 and (ii) Unorganized Sector Workers Social Security Bill, 2005. All the four draft Bills were examined. The National Commission for Enterprises in the Unorganized Sector has also presented its report on Social Security for Unorganized Sector Workers in May, 2006.\footnote{\textit{Supra} note 2 at11.}

With a view to provide social security to unorganized workers, the Unorganized Worker’s Social Security Act, 2008 was enacted. The Government initiated steps to provide social security benefits to workers in the unorganized sector. It provides the meaning of unorganized sector. The Unorganized Sector Workers Social Security Act, 2008 provides for safety, social security, health and welfare matters\footnote{The Unorganized Sector Workers Bill, 2004.} to all private 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 10 persons.\footnote{The Unorganized Worker’s Social Security Act, 2008, Section 2 (k)} The Act provides for constitution of National Social Security Board to recommend social security schemes viz. life and disability cover, health maternity benefits, old age protection and any other benefit as may be determined by the Government for unorganized workers.
The Government has initiated steps in the context of all these social security benefits. These social security schemes are for BPL families, street vendors, workers in the construction and building segment and MNREGA workers.

It provides legislative backing to all the social security schemes. These include the Aam Admi Bima Yojana, National Old Age Pension Scheme and the Health Insurance Scheme which targets at extending social security measures to unorganized sector workers. The law thereby aims at extending to workers in informal sector status and benefits similar to that of formal sector workers. It provides for death and disability cover to rural landless households between the age group of 18 to 59 years, with effect from 02.10.2007.

**k. The Domestic Workers (Registration, Social Security and Welfare) Act, 2008**

In last few decades there has been a tremendous growth in the demand for domestic workers which has led to the trafficking and other forms of exploitation of millions of women and children of the both sexes and to meet this growing demand there has been a spurt of thousands of placement agencies providing domestic workers in metro-towns of many states who are exploited in various ways as well as trafficked and remain outside the purview of any legislative control. Absence of any legal protection, has led to severe exploitation of women and children which include depriving domestic workers from there entire salary, average more than 16-18 hours of work per day, absence of proper food and living/sleeping condition, forced and total cut off from their family members, bonded labour, sexual exploitation by agent during transit, at the office of agency and at the work place in houses of employers. The list of exploitation is endless and frequently reported upon by the media. This legislation aims at

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58 Below Poverty Line family means a family with an income in urban is ₹560 per month per head and in rural ₹368 in 2005-06.
regulating payment and working conditions of domestic workers and entitles every registered domestic worker to receive pension, maternity benefits and paid leave that is a paid weekly off.  

The National Social Security Board constituted under the Act had constituted a State and district level of the Board to explore the extension of social security schemes for unorganized workers. The said Sub-Committee recommended domestic workers as one of the categories to be considered for social security. Accordingly, the Government set-up a Task Force to evolve a policy framework for domestic workers in the context of regulatory mechanism and providing social security. The Task Force had examined various issues such as extending coverage of Rashtriya Swasthya Bima Yojana (RSBY), health and maternity benefits, life and disability benefit, old age pension, etc., to domestic workers.

A person who is employed for remuneration whether in cash or kind, in any house hold through any agency or directly, either on a temporary basis or permanent, part time or full time to do the household work or allied work (household and allied work includes but is not limited to activities such as cooking or a part of it, washing clothes or utensils, cleaning or dusting of the house, caring or nursing of the children or sick or old or handicapped). Every domestic worker who has completed eighteen years of age, but has not completed sixty years of age, and who has been engaged in any domestic work for not less than ninety days during the preceding twelve months shall be eligible for registration as a beneficiary under this Act and shall cease to be as such when he attains the age of sixty years or when he is not engaged in any domestic work for not less than ninety days in a year. Provided that in computing the period

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61 The Domestic Workers (Registration, Social Security and Welfare) Act, 2008, Statement of objects and reasons
62 Ibid at Section 4.
63 Press Information Bureau, Government of India, N. Delhi.
64 Supra note 59 at Section 2 (f).
65 Ibid at Section 16.
of ninety days under this sub-section, there shall be excluded any period of absence from work due to any personal injury or accident. Notwithstanding if a person had been a beneficiary for at least three years continuously immediately before attaining the age of sixty years, he shall be eligible to get such benefits as may be prescribed.\textsuperscript{66}

If a beneficiary is unable to pay his contribution due to any financial hardship, waive the payment of contribution for a period not exceeding three months at a time. A beneficiary may authorize his employer to deduct his contribution from his monthly wages and to remit the same, within fifteen days from such deduction, to the Board.\textsuperscript{67}

\textbf{VI. SCHEMES PROVIDING SOCIAL SECURITY TO WORKERS OF UNORGANIZED SECTOR}

In the year 1955, the Assam Tea Plantations Provident Fund Act covering tea plantations was enacted by the Assam Legislature. By gradual extension of their scope and coverage, the schemes have been made applicable to a fairly wide range of employees in factories, mines, plantations and other classes of establishments in a comparatively short time. In essential details, these enactments have parallel provisions.\textsuperscript{68}

\textbf{a. Coal Mines Provident Fund Scheme}

While provident fund schemes were common in some Government employments and with enlightened employers, the first legislative measure to cover industrial workers was the Coal Mines Provident Fund and Bonus Schemes Act, 1948. The legislation was designed to make adequate provision for the future of labour in coal mines, to inculcate in them a habit of thrift and to stabilise the labour force in the coal mining industry. In the initial stages, the Schemes ran into opposition both from the employers and from the workers.

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\item\textsuperscript{66} \textit{Ibid} at Section 18.
\item\textsuperscript{67} \textit{Ibid} at Section 20.
\item\textsuperscript{68} \textit{Supra} note 8 at 171.
\end{enumerate}
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The employers’ plea was founded on the additional financial liability involved in it; the workers considered the deduction of provident fund dues to be a compulsory levy. The misgivings on both sides were soon dispelled and the scheme got off to a good start.

As a result of the experience gained out of the working of the Coal Mines Provident Fund Scheme and because of the persistent demand made to the Central Government for extending similar benefits to workers employed in other industries, the Employees’ Provident Funds Act was passed in 1952.

With a modest beginning in the States of Bengal and Bihar in 1947, the Coal Mines Provident Fund Scheme now covers all coal mine workers in the country. Besides the main scheme of 1948, separate schemes on similar lines were formulated and applied to coal mines in Andhra Pradesh and Rajasthan and to the Neyveli Lignite mines in Madras. Initially the membership of the Fund was open to employees in coal mines, whose basic pay did not exceed Rs. 300 per month. The wage limit for membership was gradually withdrawn; persons employed in organisations ancillary to coal mines and some special categories of workers were brought within the Scheme. The Scheme now applies to all persons, whether employed directly or through contractors, irrespective of their pay.

Originally, the rate of compulsory contribution to the Fund by the members was 6 1/4% of their basic wages, employers contributing an equal amount. Pay plus dearness allowance has been the basis of contribution since 1955. The compulsory rate of contribution was further enhanced to 8% of the total emoluments of workers from October 1, 1962. The members were given an option from June, 1963 to make an additional voluntary contribution upto 8% of their total emoluments, but without a matching contribution from the employer. The accumulations in the Fund are protected against being charged or assigned and cannot be attached by a court.69

69 Id;
b. **Employees Provident Fund Scheme**

Employees' Provident Fund Scheme was brought into force from November 1, 1952. Initially the Employee's Provident Funds Act applied to six industries, *viz.* cement, cigarettes, electrical, mechanical or general engineering products, iron and steel, paper and textiles (made wholly or in part of cotton, or wool, or jute, or silk whether natural or artificial). By an amending Act in 1956, the scope of the Act which initially covered factory establishments only was extended to cover non-factory establishments such as plantations except tea, mines other than coal mines, and commercial establishments.

The statutory rate of contribution both for members of the Fund and the employer is 6 ¼ percent of basic wages, dearness allowance (including the cash value of any food concession) and retaining allowance, if any. By an amendment of the Act, the statutory rate was first raised to 8 per cent from January 1, 1963 in respect of establishments employing 50 or more persons in the four industries (cigarettes; electrical, mechanical or general engineering products; iron and steel; and paper other than hand-made paper). The enhanced rate of 8 per cent is being gradually applied to other industries and classes of establishments covered under the Act. The amount standing to the credit of any member cannot be assigned or charged or attached by a court. The amount of contributions received in 1967-68 was in the neighbourhood of Rs. 175 crores.\(^\text{70}\)

c. **Swarnajayanti Gram Swarojgar Yojana (SGSY)**

Swarnajayanti Gram Swarojgar Yojana (SGSY) is an initiative launched by the Government of India to provide sustainable income to poor people living in rural areas of the country. The scheme was launched on April 1, 1999. The objective of the scheme is to bring the self-employed persons above the poverty line by providing them income-generating assets through bank credit and Government subsidy. Up to November 2005 (the Centre and States, sharing the

\(^{70}\) *Ibid* at 172.
costs on 75:25 basis), an amount of ₹6,980 crore had been utilized to assist 62.75 lakh self-employed.\textsuperscript{71}

d. **Sampoorna Grameen Rozgar Yojana (SGRY)**

The Sampoorna Grameen Rozgar Yojana is actually a combination of the provisions under the Employment Assurance Scheme (EAS) and Jawahar Gram Samridhi Yojana (JGSY). The Sampoorna Grameen Rozgar Yojana, in English is Universal Rural Employment Programme was a scheme launched by the Government of India to attain the objective of providing gainful employment for the rural poor. From April 1, 1999, EAS\textsuperscript{72} became an allocation-based scheme. The programme was implemented through the Panchayati Raj institutions.\textsuperscript{73} The Sampoorna Grameen Rozgar Yojana was launched in September 2001. The objective of this programme is to provide additional wage employment in the rural areas as also food security and creation of durable community, social and economic infrastructure in the rural areas.

The scheme had special provisions for women, scheduled castes, scheduled tribes and parents of children withdrawn from hazardous occupations. While preference is given to families below the poverty line, people who live above the poverty line too are eligible under this scheme.

e. **Indira Awas Yojana (IAY)**

Indira Awaas Yojana is a Government of India social welfare programme to provide housing for the rural poor in India. The differentiation is made between rural poor and urban poor. It is one of the major flagship programs to construct houses for BPL population in the villages. The Government is implementing it with the objective to provide dwelling units, free of cost, to the Scheduled Castes, Scheduled Tribes, and freed bonded labourers, and also the non-

\textsuperscript{71} Supra note 2 at 61.
\textsuperscript{72} EAS was first implemented on 2 October 1993 in 1778 blocks located in the rough, rugged, sparsely populated areas of the country.
\textsuperscript{73} Ministry of Rural Development, 1-3, 2005.
SC/ST BPL families in rural areas. A financial assistance of ₹25,000 per unit in the plains and ₹27,500 for hilly/difficulty areas is provided under this scheme. Up to January 30, 2006, about 138 lakh houses had been constructed/upgraded with an expenditure of ₹25,208 crore. The Government has approved a Plan Scheme for construction of houses by beedi workers and others and a token allocation of ₹5 crore has been made for the year 2006-07.

**f. National Rural Health Mission (NRHM)**

National Rural Health Mission (NRHM) was launched on 13th April 2005, to provide accessible, affordable and quality health care to the rural population, especially the vulnerable groups. It provides effective health care to rural population including unorganized sector labourers throughout the country.

As per the 12th Plan document of the Planning Commission, the flagship programme of NRHM will be strengthened under the umbrella of National Health Mission which will have universal coverage. The focus on covering rural areas and rural population will continue along with up scaling of NRHM to include non-communicable diseases and expanding health coverage to urban areas. Accordingly, the Union Cabinet vide its decision dated 1st May 2013 has approved the launch of National Urban Health Mission (NUHM) as a Sub-mission of an over-arching National Health Mission (NHM), with National Rural Health Mission (NRHM) being the other Sub-mission of National Health Mission.

**g. Deen Dayal Hathkargha Protsahan Yojana (DDHPY)**

This is a Central/State plan scheme implemented in a fifty fifty ratio, with an aim to provide support in product development infrastructure support, institutional support, training to weavers, supply of equipments, and marketing support, etc., and integrated and coordinated for an overall development of the sector and benefit to

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75 Supra note 2 at 61.
76 Supra note 11.
handloom weavers, both within cooperative fold, as well as those outside to produce quality fabric, which is acceptable in the market.\textsuperscript{77} It has been launched to provide assistance to the handloom weavers for basic inputs like looms, working capital loans etc. The centrally sponsored scheme entailed an expenditure of ₹257 crore (aprox) during Xth Plan.\textsuperscript{78}

\textbf{h. Work Shed-cum-Housing Scheme}

The handloom industry is basically a cottage industry and handloom weavers prefer to work in their homes. Improvement of work place is an important infrastructure support for the weavers. An improved workshed or house-cum-workshed provides better work environment, more space, improves working hours because better lighting is available and enables installation of improved looms. The Government of India, in pursuance of the Textile Policy of 1985, introduced a Centrally Sponsored Scheme called 'Workshed-cum-Housing Scheme' for handloom weavers during the 7th Five Year Plan, in recognition of these aspects and the scheme was also in operation during VIII Five Year Plan. In view of several requests received from various State Governments and handloom agencies to enhance the government share for construction of these units and in the light of the continuing escalation in the cost of construction the scheme grant was last revised in 1997-98.\textsuperscript{79} A subsidy of ₹7,000 for rural work shed and ₹9000 for urban work shed is extended to the handloom weavers by the government. A subsidy of ₹1152.86 lakh has been released to the states as on 28.2.2006.\textsuperscript{80}

\textbf{i. Thrift Fund Scheme}

The Thrift Fund Scheme for handloom weavers was introduced in the VIIth Five Year Plan as one of the social welfare measures from

\textsuperscript{77} Available at http://india.gov.in/scheme/deen-dayal-hathkargha-protsahan- yojna (visited on December 23, 2013).
\textsuperscript{78} Supra note 2 at 63.
\textsuperscript{79} Available at http://www.orissa.gov.in/textiles/schemes_workshed.htm (visited on December 23, 2013).
\textsuperscript{80} Supra note 2 at 63.
the government. The scheme envisaged creation of a fund in the nature of a provident fund. The fund was created by contribution from the wages earned by the members and the contribution of the central and state government. The scheme continued during the 8th and 9th Five Year Plan with slight modifications from time to time. The scheme is still in operation.\(^{81}\)

The scheme envisages the benefits like temporary advance, partial and final withdrawals. The scheme is implemented through the Weavers’ Cooperative Societies/Corporations etc. A sum of ₹4.12 crore was released to the State Governments to cover 1,04,075 weavers.\(^{82}\)

**j. The Health Package Scheme**

The scheme provides financial assistance for reimbursement of cost of medicine and treatment of diseases like T.B., Asthma up to ₹1500 per weaver per annum, cost of testing of eyes ₹40 and cost of spectacles ₹150, ₹35,000 for bore-well for supply of drinking water in weavers locality, maternity benefit of Rs.500 per delivery twice in lifetime and Rs. One lakh for primary health centre, etc.

**k. Mahatma Gandhi Bunkar Bima Yojana**

This has been launched on 2.10.2005 through LIC. The basic objective of the ‘Mahatma 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 also higher sum assured.\(^{83}\) Under the scheme, the sum assured is ₹50,000 in case of natural death, ₹80,000 in case of accidental death. An amount of ₹3.15 crore has been sanctioned to LIC upto 28.2.06 to cover 210000 weavers.\(^{84}\)

**l. Development of Model Fishermen Villages**

Under this component, the eligible fishermen in inland and marine sector would be provided with basic civic amenities like

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\(^{81}\) Available at http://india.gov.in/scheme/thrift-fund-scheme-handloom-weavers (visited on December 23, 2013).

\(^{82}\) Supra note 2 at 63.

\(^{83}\) GOI No.1/5/2002-DCH/Proi.I (BBY) (Vol.I.I)

\(^{84}\) Supra note 2 at 64.
houses, drinking water and commonplace for recreation and work. The respective States/UT’s shall provide land for development of these amenities. The States should keep the following criteria in view while selecting beneficiaries for allotment of houses under the scheme:-

- The beneficiary should be an active fisherman identified by the State Government.
- Preference should be given to fishermen below poverty line and to landless fishermen.
- Fishermen owning land or kutcha structure may also be considered for allotment of houses under the scheme.

Cost of the development would be shared equally by the Central Government and State Governments. It provides basic civil amenities such as housing, drinking water and construction of community hall for fishermen in villages.

**m. Group Accident Insurance Scheme for Active Fishermen**

Under this component, fisherfolk/licensed/identified or registered with the State/UT Governments would be insured for ₹50,000 against death or permanent total disability and ₹25,000 for partial permanent disability. The insurance cover will be for a period of 12 months and a policy would be taken out by FISHCOPFED in respect of all the participating States/UT’s. The annual premium payable would not exceed ₹15 per head 50% of which will be subsidized as grants-in-aid by the Centre and the remaining 50% by the State Government. In the case of Union Territories, 100% premium will be borne by the Central Government.

**n. Saving-cum-Relief for the Fishermen**

For purpose of this component, an eligible marine fisherman means a person who is professionally engaged in full time fishing in sea, is member of Cooperative Society/Federation/Welfare Society, lives below poverty line, does not own mechanized fishing boat/beach landing craft and is below 60 years of age. If any member of a

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86 Id;
fishermen family has regular employment or indulges in any other income generating activity, such family will not qualify to be beneficiary under this component.  

Under the saving-cum-relief component, marine fishermen contribute a part of their earnings during non-lean months @ ₹75 per month which is matched with equal contribution shared on 50:50 basis between the central and state governments and the beneficiary is paid ₹300 per month during the lean season of four months.

**o. Krishi Shramik Samajik Suraksha Yojana**

The Government has launched the Krishi Shramik Samajik Suraksha Yojana, 2001 through Life Insurance Corporation of India (LIC) in 50 identified districts in the country to cover 10 lakh agricultural workers @ 20,000 in each district during the first phase of three years. Every agricultural worker within the age group of 18-50 is eligible to join the scheme. The worker is required to pay ₹1 per day (₹365 per year) and the contribution of the government is ₹2 per day. The Government contribution is to come from Social Security Fund. The benefits include group insurance, the lump sum amount of ₹4,000 as money back after 10th year and to be doubled after every next 10 years till the age of 60 years, pension ranging from ₹100 to ₹1900 per month depending upon the age of entry. The Scheme has since been closed. The workers registered under the Scheme as on 31st March, 2003 (around 2.5 lakh) would however, be receiving the benefits under the Scheme.

**VII. ROLE OF NON GOVERNMENT ORGANIZATIONS**

There are some of the non-government organizations which work for providing social security to workers of unorganized sector workers. These are:

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87 Id; 
88 Supra note 2 at 65. 
89 Ibid at 69. 
90 Id;
a. Self-Employed Women’s Association (SEWA)

SEWA, a women’s organization, is promoting social security through the formation of co-operatives. It aims to provide need based services to the women on demand and on payment of affordable charges. An Integrated Insurance Scheme introduced by SEWA for its members, offers several benefits for a consolidated premium of ₹45 per annum. While SEWA itself provides some of the benefits, it also works as a nodal agency to get cover under various policies separately for specific benefits from different insurance companies. The risk covered includes health costs upto ₹1000, maternity benefit of ₹300 and payment of varying amounts upto ₹10,000 in case of natural or accidental death including disablement of the member or her husband. The total coverage of SEWA social security scheme is about 50,000 women.91

b. Working Women Forum (WWF)

The Working Women’s Forum India (WWF) selects and trains women cadres from the poorer neighbourhood communities to perform marketable skills in the field of health care to the poor as advocates at the grassroots. The health care system of WWF has impacted a population of about 1 million in 720 slums and 340 villages through 960 health cadres from the grassroots. Further about 5 lakh members are covered under the social security scheme for insurance for life, full/partial disability, accidents and crisis management towards rehabilitation during natural calamities. A Health Insurance Programme provides maternity benefits, reimbursement of hospitalization expenses etc., and also organizes preventive health check-ups.92

91 Ibid at 68.
92 Id;
VIII. STATUTORY WELFARE FUNDS FOR WORKERS OF UNORGANIZED SECTOR

a. Coal Mines Labour Welfare Fund

The Fund was constituted in 1944 through levy of a cess on coal. Welfare measures undertaken by the Fund in coalfields comprise medical, educational, housing and drinking water facilities. Two well-equipped central hospitals have been established with all modern facilities for specialised treatment. One more central hospital is under construction. By 1967, eleven regional hospitals were functioning for the treatment of simple cases requiring hospitalisation. Several dispensaries, mobile medical units and maternity and child welfare centres are also functioning. Besides these, beds have been reserved by the Fund in medical institutions run by State Governments and other agencies. Adult education and feeder adult education centres are run in many coalfields. Scholarships are awarded for general and technical education of miners' children. Besides tuition fees, grants-in-aid are paid to schools. For miners whose children are reading in schools away from their residence, a children's education allowance is given. Recreation facilities are provided in a number of Miners' Institutes. Twelve wholesale cooperative stores, 377 primary stores and 197 credit societies have been organised by the Fund till 1967. Financial assistance, at prescribed rates, is given under the Coal Mines Fatal and Serious Accidents Benefit Scheme in cases of death and permanent disability due to accidents in coal mines. Several holiday homes are being run. Tours are organised to different parts of the country to enlarge the outlook of workers on current developments. Sports meets are also a part of the activities.93

b. Mica Mines Labour Welfare Fund

The Fund was constituted in 1946 and is financed through levy of a cess. The Fund had established till 1967, seven hospitals, thirty-four dispensaries, eight mobile medical units and seventeen maternity centres. The Fund had established till 1967, seven hospitals, thirty-four dispensaries, eight mobile medical units and seventeen maternity centres.

93 Supra note 8 at 137.
and child welfare centres. It has also set up nine multi-purpose institutes, eight community centres, nine Women's welfare centres, twelve primary schools, twelve feeder centres, seven boarding homes/hostels, four mobile cinema units and eighty five radio centres. Workers' children are provided with mid-day meals, milk, snacks, stationery articles, and also grants for scholarships and tuition fees.94

c. Iron Ore Mines Labour Welfare Fund

The Fund was constituted through the Iron Ore Mines Labour Welfare Fund Act, 1961 which was brought into force in October, 1963. It is financed through levy of a cess on iron ore. A small hospital and two mobile ambulance-cum-medical units and two mobile dispensaries had been established by 1967. Beds have been reserved in T.B. hospitals run by State Governments and other agencies. Scholarships are granted to school-going children of workers. A number of multi-purpose institutes have been set up. A holiday home is run for providing recreational facilities. Excursion-cum-study tours are also arranged.95

d. Building and Other Construction Workers Welfare Fund

There is Building and Other Construction Workers Act, 1996 enacted by the Central Govt. Most of the state governments are in the process of constituting Welfare Funds, framing the rules etc. The Act has provision of levying a cess and to implement the scheme through the welfare fund for the benefit and Welfare of Building and Other Construction Workers. The implementation of this Act and Constitution of welfare fund in the long run will take care of social security needs of the workers engaged in construction activities in the unorganised sector. Further, Govt. is also examining the possibility of having a National Policy on Home Based Workers, which may provide broad framework to safeguard the interests of this category of workers in the unorganised sector.96

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94 Id;
95 Id;
IX. CONCLUSION

Regulatory restrictions are there where life cover and pension benefits can be provided by life insurance companies, health care can be provided by non-life insurance companies. But the central idea should be convergence of all schemes reducing to one single interface between beneficiaries on one side and the service providers on the other side.

The workforce in the unorganized sector does not get adequate labour protection in terms of job security, wages, working conditions, social security and welfare due to various factors such as casual and seasonal employment, scattered work place, poor working conditions; lack of employer-employee relationship; irregular and often long working hours; limited access to credit; lack of legal protection, social security and government support. India’s National Sample Survey Office in its 67th report found that unorganized manufacturing, unorganized trading/retail and unorganized services employed about 10 percent each of all workers nationwide, as of 2010. It also reported that India had about 58 million unincorporated non-agriculture enterprises in 2010.

It is clear from above discussion that there is multiplicity of social welfare schemes run by different government units at central and state level, there is some amount of confusion at the level of beneficiaries as to what exactly they are entitled to. This involves the problem of duplication of efforts, record keeping and there is also a possibility of double or multiple benefits reaching the same person under different schemes due to manipulation and corruption Administration of each scheme involves huge administrative cost. Hence presence of large number of schemes for the same common cause makes up a very strong case for rationalization of the whole

97 Ibid at 6.
system leading to convergence of all schemes and benefits under one umbrella. This will save huge costs on one hand, and simplify the system from beneficiaries point of view on the other hand. There should be one centralized data base for all the social security schemes and access to the social security benefits should be made available against one single identity number. Further, it is felt that although technically there is lot of scope for extending social security cover to a variety of areas list, but an all inclusive comprehensive provision will require huge resources. It will therefore be prudent to divide the social security needs in to two levels. The minimum social security floor involving the basic components of security at its minimal level and other security needs which can be added or built later according to convenience and affordability. Social security cover for the unorganized sector which can take care of medical care, accident benefits and old age pension should receive priority attention. Adhar Card can be used to stop misuse of different benefits under different schemes.

98 Supra note 11 at 11.