CHAPTER – V

SOCIAL SECURITY AND UNORGANIZED SECTOR

5.1 Introduction

Social Security is a basic need of all people regardless of the sector of employment in which they work and live. It is an important form of social protection that is required to certain class of people in the society all along their life. Generally, Social Security refers to protection extended by the society and state to its members to enable them to overcome various contingencies of life so as to lead a dignified life.

The main risks or insecurity to which human life is exposed and in relation to which an organized society can afford relief to the helpless, individuals are the incidents occurring right from childhood up to old age and death, which includes mainly sickness, invalidity due to maternity, accident and occupational disease, unemployment, old age etc.

We now take up for discussion the issues connected with another group of workers, who cannot be identified by a definition but could be described as those who have not been able to get organized in pursuit of a common objective because of constraints such as (a) casual nature of employment, (b) ignorance and illiteracy, (c) small size of establishments with low capital investment per person employed, (d) scattered nature of establishments, and (e) superior strength of the employer operating singly or in combination. These are the people in Unorganized
Sector. We propose to cover every sector of such employment, but take up categories where the number of workers is large and where information about them is available in some form.

The people in unorganized sector include –

1. Building construction workers
2. Casual labourers
3. Labourers employed in small scale industries
4. Handloom and power loom workers
5. Workers in Bidi and cigar factories
6. Employees in shops and commercial establishments
7. Sweepers and scavengers
8. Workers in tanneries
9. Workers in matches and crackers industry
10. Fishermen
11. Farmers and agriculture labourers
12. Small and marginal farmers
13. Share croppers
14. Persons engaged in animal husbandry, fishing, horticulture, bee-keeping, toddy tapping, etc.
15. Forest workers
16. Rural artisans
17. Manual labourers in carpentry, trade, transport, communication etc.
18. Street vendors
19. Hawkers
20. Head load workers
21. Cobblers
22. Tin smiths
23. Garment makers

There will be a certain measure of overlap between them. For instance, bidi and cigar establishments can fall under contract labour, which could be found in casual labour and so on sometimes. These categories will include workers who are protected by some labour legislation and others who are not. We expect that between them, the categories of workers dealt with will throw up a range of issues which will cover the rest of unorganized/unprotected labour as well.

Though we have enacted good number of Social Security legislations to meet the mandate of our Constitution and provide some sort of protection to the people in case of various workers in unorganised sector, the scope and coverage of these legislations is limited to a lesser percentage of the total work force in the unorganized sector due to various reasons. But the remaining large number of persons working in unorganized sectors such as the small and marginal farmers, the landless agricultural labours, the rural artisans, the handicrafts men and women, the fishermen and women the salt workers, the hamals and the building and construction workers etc., are deprived of protection under many Social
Security legislations of the State. Thus majority of the work force in the above said unorganized sectors are in an urgent need of a comprehensive Social Security protection which can be achieved by dedicated efforts of the government and can be supplemented by non-government organizations.

5.2 Social Security and Unorganized Sector

Unorganized sector, also known as informal sectors, can be broadly characterized as consisting of units employment engaged in the production of goods or services operating on a small scale and at a low level of organization without distinguishable division between labour and capital as factors of production.

The necessity of Social Security by the government is of greater significance in the case of people in unorganised sector. For the first time in India a comprehensive Social Security scheme for the unorganized sector has been proposed. The proposal by the National Commission for Enterprises in the Unorganized Sector seeks to develop a healthy workforce that in turn will have a positive impact on national income and economic growth. The scheme aims to cover sickness, maternity, old age and death and proposes a participatory system with some contributions from the workers.

The National Commission for Enterprises in the Unorganized Sector (NCEUS) submitted its first report on Social Security for unorganized workers to the Government of India on May 16, 2006. The objective of this Commission with
legislative backing is to provide a national minimum Social Security that will act as a floor level to the estimated 30 crore workers in the unorganized sector.

When all the informal workers are covered, the Central Government contribution will be 20,583 crore (including pension to below the poverty line (BPL) workers and administrative expenses) and the contribution of state governments will be Rs 4,819 crore. As a percentage of GDP, this works out to 0.48 percent. However, the whole scheme is to be completed within a period of five years covering one-fifth of the eligible informal workers every year. ¹

Except the old-age security, all the other Social Security benefits are based on the insurance model. This makes it possible for delivery of the benefits by the independent agencies functioning on the basis of the insurance business model. It will be the responsibility of the national board as well as the state boards to ensure the best possible deal by selecting the appropriate service provider. While life insurance products are well tested and are offered to widely disperse poor population both by the LIC and department of posts, there is limited experience with health insurance for this segment of the population.

In the case of provident fund for above the poverty line (APL) workers it can be managed by mutual fund. A guaranteed annual return of 10% has been proposed since the small savings of the poor unorganized workers should not be subjected to the vagaries of the capital market. As mutual funds cannot guarantee return, indirectly such a guarantee should be provided by the National Social Security Fund that will make up whenever there is a deficit in the yield below

¹ Economic and Political Weekly, August 12, 2006
10%, and retain any surplus whenever the yield in the mutual fund is above 10%. Historical experiences suggest that the Indian capital market has done reasonably well to ensure the delivery of the proposed returns even with the adequate risk hedging with the yield from the high return years will most likely cover the low returns of the different periods.

The real challenge here is the collection of contribution from the workers over the breadth and length of the country and ensuring timely delivery of services. The commission has carefully examined this issue and after discussion with the department of posts and telegraphs has recommended that the vast network of the postal system be taken advantage for this national project. There are at present more than 1,56,000 post offices in the country and the system has long-standing credibility as well as accessibility to common people. The Department of Post is willing to undertake the collection of contribution from the workers as well as the government through its network. It could also function as a bookkeeper to the Social Security system by maintain the bookkeeping accounts and making payments to the service providers as required by the concerned boards or the national board.²

The National Commission for Enterprises in the Unorganized Sector (NCEUS) has referred to the concepts and results of NSS survey on Employment and Unemployment. While addressing the issues of employment in informal sectors, the NCEUS noted that: employment in India can be meaningfully grouped into four categories to reflect quality and its sectoral association. These are –

The Commission has defined the informal sector as “the unorganized sector consists of all unincorporated private enterprises owned by individuals or households engaged in the sale and production of goods and services operated on a proprietary or partnership basis and with less than ten total workers” and the Informal worker/employment as “Unorganized workers consist of those working in the unorganized sector or households, excluding regular workers with social security benefits provided by the employers and the workers in the formal sector without any employment and social security benefits provided by the employers”. The Commission also considered all agricultural activities undertaken on agricultural holdings, either individually or in partnership, as being in the unorganised sector, thus according to this definition, it excludes only the plantation sector and other types of organised agriculture (e.g. corporate or cooperative farming) and covers a very large part of agriculture. Thus it can be seen that the Commission has made an important distinction between the organized or formal and unorganised or informal employment as outlined above.

Ever since the introduction of the policies of economic liberalization and privatization under the globalization regime in 1991, there has been immense pressure on successive governments at the Centre from the industrialists and
MNC lobbies to amend existing labour laws and to introduce an exit policy by giving undiluted powers for managements to hire and fire at will. After failing to make any headway, due to organized resistance from the workers, the government instituted the Second Labour Commission in 2000 under the chairmanship of Ravindra Verma to propose amendments to labour laws. In order to win over some sections of the labour there was a proposal to introduce some protection for unorganized sector workers as well. The entire two year exercise costing crores of rupees to the exchequer ended up as a damp squib, again due to sustained opposition from the labour organization, which succeeded in organizing countrywide massive working class protests. The industrialists lobby went into overdrive blaming the organised sector for the plight of the unorganized sector with the convoluted argument that the formers hard won rights deprived the latter of their rights.

Last year, in line with the Second Labour Commission’s proposal for an Unorganized Sector Workers (Employment & Welfare) Bill, the Government brought out a bill-the Unorganized Sector Workers Bill, 2003. The Bill envisaged the setting up of National Boards at the central level and state-level called the Boards & Welfare Facilitation Centers (WFCS). The Bill envisaged that workers would have to register themselves with these Boards. However, there was no provision whatsoever for the registration of employers.

According to a study by a forum for the unorganized, The Kedari Padathi Virodhi Manch (the Manch), proposed draft legislation for the unorganized sector
and discussed how in the Maharashtra state government, a major part of the state government’s contribution to the scheme was being diverted from the Employment Guarantee Scheme (EGS), which is the fund set up by the State to give employment and subsistence to the unemployed poor in the rural areas, especially in drought affected regions. The Manch pointed out that in the name of ‘welfare’ and Social Security, the employer was being let off the hook completely and while the poorest of the State’s rural population was being made to bear the cost. The cycle is complete when you consider that the money which makes up the EGS fund is collected from workers in the form of professional tax.

5.3 Need for Social Security in Unorganized Sector in India

Unorganised or informal sector constitutes major part of the economy and it plays an important role in the Indian economy. More than 90 per cent of the total workforce in the country and about 50 per cent of the national product are accounted for by the Unorganised Sector. Sadly, majority of the socially and economically underprivileged sections of society are concentrated in the economic activities of this sector.

Unorganised Sector is increasingly interlinked with the Organised Sector and therefore it plays a vital and key role in the development of any country.
The significant effect and the impact on the economy from the Unorganised Sector are evident from the following statistics showing the share of Labour Input in different fields of Unorganized Sector:\(^3\)

<table>
<thead>
<tr>
<th>Category</th>
<th>Share of Unorganised Sector (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>i. Agriculture &amp; forestry</td>
<td>99.9</td>
</tr>
<tr>
<td>ii. Fishing</td>
<td>98.7</td>
</tr>
<tr>
<td>iii. Mining</td>
<td>64.4</td>
</tr>
<tr>
<td>iv. Manufacturing</td>
<td>87.7</td>
</tr>
<tr>
<td>v. Electricity, Gas &amp; water supply</td>
<td>12.4</td>
</tr>
<tr>
<td>vi. Construction</td>
<td>92.4</td>
</tr>
<tr>
<td>vii. Wholesale &amp; Retail trade</td>
<td>98.3</td>
</tr>
<tr>
<td>viii. Hotel &amp; Restaurants</td>
<td>96.7</td>
</tr>
<tr>
<td>ix. Transport, Storage &amp; Communication</td>
<td>82.2</td>
</tr>
<tr>
<td>Financial Intermediation</td>
<td>32.4</td>
</tr>
<tr>
<td>x. Real estate, renting and business activities</td>
<td>81.4</td>
</tr>
<tr>
<td>xi. Public Administration and Defence, etc.</td>
<td>2.6</td>
</tr>
</tbody>
</table>

\(^3\) National Statistics Committee Report on Unorganized Sector, February 2012, Official website of NSC
In the context of the changes in the world economy and declaim of the welfare state, there is considerable debate on the need to provide Social Security to the unorganised sector. In the past there have been attempts to extend benefits which have been available to the organized sector to the unorganised sector, which has not been very successful. This research explores these possible mechanisms for Social Security provisions, insurance, Social Security funds and state supported legislations.

The unorganized sector comprises the overwhelming majority of workers in the country. Of the working population of 317 million, over 290 million, i.e., over 92 percent are in the unorganized sector, these workers do not have steady employment, secure or sustainable income and are not covered by Social Security protection.\(^4\)

In recent years, however, there has been an awakening of interest among policy makers and academics on the one hand and demand from unorganized

\(^4\) Economic and Political Weekly May 30, 1998
sector workers themselves on the other, for economic and Social Security. The new schemes in India are moving away from the category of ‘worker’ as the beneficiary of the schemes and towards the ‘poor and needy.

The ILO has classified two broad groups according to the type of Social Security by which they are covered. They are: Social Insurance and Social Assistance. Social insurance covers workers of various categories; and Social Assistance covers persons with various disabilities, old age, and sickness. The two types of target groups then are workers on one hand, and persons with disability, on the other. The two categories are of course not mutually exclusive as a worker may develop a permanent or temporary disability; and a person with a disability may also be a worker. The meaning of vulnerability include categories such as ‘the deprived’ ‘the poor’, or particular groups such as ‘the old’, ‘the disabled’, ‘women headed-household’, etc.

Almost every person during his or her lifetime works and contributes to society. The person may work as an employee or self-employed or contact wage worker or home-based worker in the unorganized sector. It may be for market production, as it is in the case of cash crops, or for home consumption, as in the case with many small farmers. Productive work also can be broadly defined to include the work done by women in their homes. Seen in this way almost everyone is a productive worker at some periods in his/her life and not at others. The
productivity of this ‘lifetime’ worker increases or decreases depending upon his personal and social vulnerability.\textsuperscript{5}

The periods at the beginning and end of a person’s life are often periods of no work, although here too there are child labourers in India many of whom work harder than adults; old people in India also work till they are bedridden, though their productivity may decrease.

Periods of illness, of maternity, of disaster, of accident or disability, or of complete lack of availability of work are also times when a person is not a worker. There are times, as with a mother with small children or a widow with a family to support when the worker has a lower productivity, although with more responsibilities. These are the times of ‘vulnerability’ when the person needs help and it is to these periods the Social Security is particularly addressed.

Vulnerability can be contingent, i.e., only at particular times, such as illness or disaster, or it can be chronic, i.e., it can exist continuously, as in constant disability due to malnutrition. Social Security therefore has to address both the chronic and the contingent vulnerabilities of the workers.

The target groups of the NSAS have been characterized as old, weak, poor, needy, but who are not ‘employable’. In other words they deserve our pity and help, but they are not contributing to our society. On the other hand, if we characterize the target group as the ‘worker at times of vulnerability’, then he or

\textsuperscript{5} Ahmad E, Dreeze, J Hills and A Sen (eds) (1991), 'Social Security in Developing Countries.'
she has the right to Social security, because of the contribution made already to society. It is also a method to make worker more productive, to compensate for times of vulnerability and to strengthen the individual, the family and society.\textsuperscript{6}

The protection which society provides for workers who are in unorganised sector, through series of public measures against the economic and social distress that otherwise would be caused by the stoppage or substantial reduction in earnings resulting from sickness, maternity, employment injury, unemployment, invalidity, old age and death,; the provision of medical care; and the provisions of subsidies for families with children.

Another inadequacy stems from the fact the components of Social Security listed in the definition are based on the expression of the developed countries. Provision of food, for example, which is perhaps the most important component in developing countries, is not even mentioned in the list.

As the definition broadens and moves away from the ILO stand, there is a general recognition that the Social Security must be expanded to unorganised include not only food elements such as food provision, housing and sanitation; but also income and sanitation; but also income and employment.

The concept of Social Security implies a broad pro-poor approach which has three major components, namely promotional components that aims at improving endowments, exchange entitlements, real income and social

\textsuperscript{6} Renana Jhabvala in EPW 1998.
consumption; preventive component that seeks to avert deprivation in more specific ways; and protective component (also termed as safety net measures) that is yet more specific in generating relief against deprivation.

The above definition and broadening of the scope of Social Security for unorganised sector have been extremely useful in pointing out a different dimension of Social Security in developing countries. The problem however arises that in so broadening the scope, the concentration remains on programmes of employment, income and poverty alleviation, which are immense, complex, politically sensitive and have taken up considerable resources and attention of governments, NGOs, trade unions, political parties and in fact of all groups concerned with development and/or social justice. In other words the employment components of this newly defined Social Security tend to overwhelm the other ones.

Social Security has to be seen, as has been pointed out by the commentators quoted above, in the context of the overall need of the unorganized sector. We see this as ‘full employment’, defined as the need for adequate employment, sustainable incomes, ownership of assets and access to basic minimum needs of food, health care, child care, maternity care, old age support, housing and other locally defined needs.

The approach and concept must be an integrated one, however in practical terms it is necessary to separate the programmes connected with the provision of
these basic necessities. The programmes and activities connected with provisions of employment, income and assets may be termed ‘Economic Security’ and those connected with other basic needs such as health care, child care, old age pensions, food etc. may be termed as ‘Social Security’. In an Unorganised Sector the actual elements of basic needs will vary from one group to another and from an area to another.

Economic security is the means by which society provides all persons access to their full requirement of employment, income and assets, required to reach a basic standard of living. Social Security is the means by which society provides its workers their basic needs of food, health care, child care, maternity care, old age support, housing and other locally defined needs.

Economic Security and Social Security are intimately connected. Economic security is the primary means by which persons are able to obtain their Social Security needs. In the concept of Social Security to the unorganised sector the workers in the rural areas of Bihar put it, “let us earn enough income and we can take care of all other needs”.

On the other hand, Social Security is a means to increase and maintain the productivity of the worker, so as to increase the economic security. Child care facilities can increase the hours that a women worker can be employed, and her productivity at work. Food security can ensure increased productivity and decrease in illness.
5.3.1 Social Security Measures for Unorganised Workers

There is considerable debate today on whether Social Security can indeed be provided to the informal sector, and if so, what would be the mechanisms. This debate arises in the context of the changes in the world economy and the decline of concept of the welfare state. The earlier literature as well as the actions on Social Security and the unorganized sector saw the solutions as merely extending the benefits which were so far the province of the unorganized sector alone. Thus, there were concerned attempts to extend the Employee Provident Fund Act to unorganized sector workers such as bidi workers; the ESIS, too was extended to contract workers and workers in small factories. Maternity benefit schemes were formulated for the unorganized sector women such as agricultural labourers, and administered by the state.

Although there are many possible mechanisms for Social Security provision for the unorganized sector, three specific ones are: The first is through insurance, second is through Social Security funds and the third, the provision of child care, a measure specifically needed by women workers.

Feasibility of insurance: Although the insurance market in India is a rapidly growing one, most insurance companies have not been looking at the unorganized sector as a possible market. The insurance companies tend to see this sector as unable or unwilling to participate in insurance schemes. The General Insurance Corporation (GIC), for example, says, “this section of society (the
economically poor), is not much attracted to the concept of insurance which has as its base the element of probability. The weaker section looks forward to immediate benefits and does not depend on deferred ones”.

This, however, may be a wrong perception which results in the unorganized sector not being offered insurance policies which meet their needs. Certainly, the concept of insurance is not unknown to the poor. Assets such as savings, gold or even land are seen as insurance in times of crisis or difficulties, and are used accordingly. Indeed, much of the coping strategies of the poor are designed to avoid or cope with crises such as sickness, death or natural calamities.

Crises are a recurrent fact in the lives of the unorganized sector workers and each crisis leaves them weaker and more vulnerable. It is usually a crisis, personal, social or natural which drives a family into the downslide towards destitution. The main reason for such a strong impact is the high expenditure incurred at such times, and the lack of facilities for the poor to save for such expenditures. However, if the facility of insurance was available to them they would be able to spread this risk over a longer period so that they could pay for it during the times in which they were earning. In other words insurance would often them the facility of spreading risk and vulnerabilities over a period of time.

That this is not merely a theoretical proposition has been shown by the success of different types of insurance models, in different parts of the country. Perhaps the largest such model has been implemented by the Life Insurance
Corporation (LIC), which has had a group insurance scheme for the last 10 years. This scheme offers life insurance cover at a premium of Rs 10 for every Rs 1,000 of benefit. Up to Rs 5,000 coverage is subsidized up to 50 per cent by a one-time capital grant from the government of India. The premium has to be renewed every year. This scheme had success mainly in areas where the scheme is administered by an already existing organisation such as a co-operative (such as the district milk co-operative societies), a trade union, a broad (such as the Cloth Market Workers Board), an NGO or any other organization which is able to collect the premiums from the workers, and to liaison with the LIC for recovery of claims.

Although the LIC claims to have covered more than 40 million persons under this scheme, in many cases, such as the 30 million agricultural workers covered through the DRDAs, the coverage remains notional as the premium is paid by the state governments and the claims rarely reach the ‘Beneficiaries’. In sum, the LIC Scheme has been successful, although not on as large scale as its figures show.

The SEWA Bank scheme of integrated insurance is another successful model which links insurance with both savings and trade union approach. At present the scheme covers 30,000 workers, on terms described in the table.

Other successful schemes include health insurance scheme of the voluntary health services, Adyar, Chennai and schemes run by NGOs such as SPAAPC, OPD and Asseffā.
The unorganized sector workers are willing to pay a premium for insurance, if they can pay the premium which depends on their annual income and if the services provided by the insurance schemes match their needs.

Providing insurance to the unorganized sector requires institutional mechanisms which offer services at their doorstep, products suited to their needs and mechanisms for collection premium and payment of claims.

At present there are particularly no existing institutions which could reach the unorganized sector with required products and services. The following actions are recommended to build these institutions:

i. Rather than attempting to ‘down market’ the existing insurance companies, it may be more productive to ‘upscale’ the insurance linked initiatives that already exist and are working with the unorganized sector workers. Such up scaling would involve building the capacities of these institutions, capitalizing them as well as strengthening their links with unorganized sectors.

ii. Methods of financing premiums need to be worked out so that the full burden of the premium does not fall on the worker alone. Some methods could be to link premiums with savings, to subsidise premiums through government interventions, to have employer contributions to premiums with taxes or cesses on the product made by the workers (as in the case of Beedi Workers Welfare Fund)
Social Security funds: Social Security or welfare funds are an existing method by which the central and state governments have been providing Social Security to particular segments of the unorganized sector. Some funds are administered by the central government, and many administered in various sectors by the state governments.

The Social Security needs of the unorganized sector are extensive and varied whereas, the funds available for the programmes are necessarily limited. These persons are the uncovered wage earners who work for very small employers. Their needs and characteristics are identical to those of the covered workers is the organized sector. Majority of the working people in the rural areas, especially in agriculture sector are deprived of any of the protections of the existing Social Security legislations. The small and marginal farmers, who are badly hit by drought, flood, crop failures, epidemic, disease and others, such as loss of livestock etc., needed some Social Assistance in the form of earning related programmes in the field of agriculture, animal husbandry etc., and also supply of seeds, pesticides and irrigation facilities. The other basic Social Security need in the rural areas is health care as they are more prone to various diseases.

In India the exiting Social Security arrangements in the unorganized sector can be broadly classified into the following four groups:

a. Centrally Founded Social Assistance Programmes

b. Social Insurance schemes
c. Social Assistance through welfare funds of Central and State Governments and
d. Public Initiatives

a. Centrally Founded Social Assistance Programmes

The centrally funded social assistance programmes, includes schemes for both, rural and urban under the *National Social Assistance Programmes*, which has three components, i.e., National Old Age Pension Schemes, National Family benefits schemes and National Family benefits scheme and National Maternity Benefit Scheme.

In addition on NSAP, other important schemes implemented by the Government to ensure creation of adequate employment opportunities to provide Social Security to the people in unorganized sector are:

- Sampoorna Gramin Rozgar Yojana (SGRY) has been launched to provide wage employment in rural areas;
- Swarna Jayanti Gram Swarojgar Yojana (SJGSY) covers all aspects of self-employment and beneficiaries assisted through credit cum subsidy programmes.
- Rural Housing:

Under the programme of rural housing there are two schemes viz.,

- Indira Gramin Awas Yojana
- Pradhan Mantri Gramodaya Yojana
The Gramin Awas are in operation for the rural poor below the poverty line. The houses are allotted in the name of the female member of the household and in the joint name of the husband and wife.

In addition to these programmes implemented through the Ministry of Rural Development and Ministry of Urban Employment and Poverty elevation, the Ministry of Textiles are also implements certain Social Security schemes for workers in handloom and power loom sector.

b. Social Insurance Schemes

The Social Insurance Schemes available to the unorganized sector were earlier being operated through LIC, such as Social Security Group Insurance schemes- all persons in the age group of 18 to 60 years belonging to 24 approved occupation groups, i.e., Bidi workers, brick, cleaning working, carpenters, cobblers, fishermen, hamal, handicraft artisans, handloom weavers, handloom and Khadi weavers, lady tailors, leather and tannery workers, papad workers, attached to the Seva. Physically handicapped self-employed persons, Primary milk producers, Rickshaw pullers, Auto drivers, Safai karmacharies, Salt growers, Tendu-leaf collectors, urban poor, forest workers, power loom workers, women in remote rural hilly areas etc.

However, all the schemes now have been merged with the Janshree Bima Yojna by LIC since august, 2000. The Janshree Bima Yojna provides benefit of insurance in case of death, permanent partial disability. The premium for the above benefit is Rs 200/- per beneficiary and 50% of this premium; i.e., Rs.100/-
is contributed from the Social Security fund. The scheme is available to persons in the age group of 18 to 60 years and living below or marginally above the poverty line.

The Government of India also implemented schemes for the benefit of workers in the unorganized sector; such as handloom weavers, artisans, and other relevant industries. The schemes for handloom weavers include work-shed cum housing schemes. The thrift housing scheme, health package scheme and insurance scheme. Similarly, work-shed cum housing, health package scheme and group insurance schemes available for artisans. There is an insurance scheme for power loom weavers also to cover the workers in the age group of 18 to 60 years earning Rs.700/- per month. The annual premium of Rs.120/- is equally shared by the central and State Government.

The Ministry of Labour in consultation with the Ministry of Finance launched a *Krishi Sharmil Samajik Suraksha Yojna, 2001* through the Life Insurance Corporation of India from 1-7-2001 in 50 identified districts to cover 10 lac agricultural workers during a span of 3 years.

The agricultural labourers in the age group of 18 to 50 years are eligible to participate in the scheme. The beneficiary will contribute Rs 365/- per annum where as the Central Government will provide Rs 730/- per annum beneficiary from the Social Security fund.
The benefits available under the scheme include life-cum-accident insurance, money back and superannuation benefits.

c. Social Assistance through welfare funds of Central and State Governments

The Central Government through the Ministry of Labour also operates at present five welfare funds for Bidi-workers, limestone’s, and dolomite mineworkers, iron ore; chrome ore and manganese ore mine workers, mica mine workers and cine workers. These funds are used to provide various kinds of welfare amenities to the workers in the field of health-care, housing, education assistance for children, drinking water supply etc. the medical assistance provided under the welfare funds includes Rs.150 for purchase of spectacles to mine and bidi workers, reservation of beds in TB hospitals, treatment and subsistence allowance in case of tuberculosis, reimbursement of expenditure up Rs 1, 00,000 for heart disease and kidney transplant etc. Maternity benefit and around Rs.500 to female Bidi worker for first two deliveries and assistance for family welfare. The Bidi workers are covered under general insurance scheme, providing Rs.3000 in case of natural death. Rs. 25000 due to death by accident and in the case of permanent partial disability. The mineworkers get Rs.5000 in case of natural and Rs.10,000 in case of accidental death.
d. Public Initiatives

In India the initiatives taken by the Public is equally effective than the government in providing Social Security to the unorganised Sector. The public sector in providing the Social security in one or other way with inviting by way shares or investments in the public private organisations. With the help of each other, the unorganised sector one or other way securing themselves.

5.3.2 Recommendations of Indian Labour Conference

The Social Security net was one of the agenda item during 38th Session of the Indian Labour Conference held in September 2002 at Delhi. A committee under the Chairmanship of Hon Minister of State for Labour deliberated the issue and made following recommendation:

- Establishment of National Security Authority under the Chairmanship of Prime Minister with adequate representation to all social partners.
- All labour legislation’s relating to Social Security should be consolidated and one comprehensive Social Security law needs to be enacted.
- The existing Social Insurance schemes should be modified and made more effective.
- The workers covered by the Social Security schemes must be provided with unique social No and identity card.
• An insurance scheme should be introduced to provide minimum financial assistance to those who lose employment till they find alternative employment.

• Administration of welfare funds, both at the central level, at State level should be improved and holistic approach is to be evolved in consultation with the State government for an effective delivery mechanism to avoid duplication.

• Employment generation should be the prime objective of the Government in co-ordination with all social partners.

• Skill development to the workers should be given top priority.

5.3.3 Surveys on Social Security

The various kinds of surveys that are conducted by the government of India are as under:

a. National Sample Survey
b. Employment-Unemployment Surveys (EUS)
c. Survey by Labour Bureau
d. Economic Survey
e. Survey by the Committee on Unorganised Sector
f. Economic Census

a. National Sample Survey

In these surveys the information on the type of enterprise in which the persons are engaged is collected in both usual principal status and subsidiary
status. The enterprises are classified into various categories viz., Proprietary, Partnership, Government/public sector, Public/private limited company, Co-operative societies/ trusts/other non-profit institutions, Employer’s households, etc. According to this form of survey agriculture and manufacturing together had about 98.2 percent jobs in the unorganised sector.

b. Employment-Unemployment Surveys (EUS)

In India about 52 per cent of workers are engaged in agricultural activities which are outside the coverage of employment-unemployment surveys for measurement of workers in informal sector or informal employment (about 65 per cent of the rural usual status workers and nearly 7 per cent of urban usual status workers are excluded from the coverage). Thus, from the employment and unemployment surveys of NSS, information on informal sector and informal employment cannot be generated for all those engaged in the agricultural sector.

c. Survey by Labour Bureau

Labour Bureau at the behest of the Ministry of Labour & Employment, undertook a survey on employment & unemployment in 2010 primarily to gauge the situation of employment and unemployment in the wake of volatile economic scenario resultant to global recession. Labour Bureau conducted the first Employment-Unemployment Survey for the year 2009-10 during April-August, 2010 covering 300 districts of 28 States/UTs selected from four strata within each
State/UT, based on population of 2001 census followed by selecting 16 villages/urban blocks from selected districts.

The Annual EUS conducted by the Labour Bureau for the study of the impact of economic volatility on the labour market does not distinguish formal and informal employment.

d. Economic Survey

Economic census is intended to enumerate all enterprises: agricultural and non-agricultural; organized (formal) and unorganized (informal); household and non-household; with fixed premises and also without fixed premises. However, Economic censuses carried out in India five times so far were limited to cover only the non agricultural enterprises and agricultural enterprises not engaged in crop production and plantations. The major deficiency of the past Economic Census was that it could not cover all enterprises without fixed premises and the enterprises carried out in residential premises due to field difficulties. As a result, ECs suffered from the undercount of enterprises, especially own account enterprises and its use as the sampling frame for the follow-up surveys was constrained.

e. Survey by the Committee on Unorganised Sector constituted by the National Statistics Committee

The National Statistical Commission constituted a 18 member Committee on Unorganised Sector Statistics for identification of the authentic date relating to
unorganized enterprises and unorganized workers and to suggest means and ways for developing reliable statistics on the unorganized sector along with all its constituents.

f. Economic Census

Economic Census means the complete count of all establishments/units located within the geographical boundaries of the country. The information collected will be used for planning purposes and to assess contribution of various sectors of the economy through follow up surveys based on the frame provided by the Economic Census.

The Central Sector scheme on Economic Census (EC) and Follow-up Surveys was for the first time formulated by the then Central Statistical Organization (CSO), Government of India way back in the year 1976. Since then five such EC’s have been conducted so far in the years 1977, 1980, 1990, 1998 and 2005. The Economic Census data, over the years, have provided a base for under taking follow up surveys by NSSO and other governmental and non-governmental agencies to study the structure and composition of the various industrial sectors and their contribution. Further, the data from ECs have been used by the Office of Development Commissioner (Micro, Small & Medium Enterprises) in the formulation of sample design for collecting data from the unregistered SSI sector in the third census as well as in the recently conducted Fourth All-India Census cum Sample Survey of Micro, Small & Medium Enterprises (2008-09).
The Sixth Economic Census-2012 was to be conducted during the year 2012 at an expense of about Rupees 700 crores involving staff of about 8 lakh. The main objectives for conducting the 6th EC are as under:

i. To provide detailed information on operational and other variables, activity wise, of all the establishments (excluding crop production, plantation, public administration, defence and compulsory social security) of the country including their distribution at all- India, State, district, village/ward levels for comprehensive analysis of the structure of the economy (macro, micro, regional levels) and for benchmark purposes;

ii. To provide updated Directory of Establishments employing 10 or more workers up to the village/ward level for local level planning purposes and use the same as an input for the development of National Business Register, which would be useful for estimation of District Domestic Product;

iii. To provide an up to date frame (list) from which samples could be drawn for collecting detailed information.

5.4 Social Security and Unorganized Sector in Developing Countries

The social coverage generally includes three dimensions, i.e. in terms of persons, benefit levels and scope (contingencies). Despite some common features like the well developed protective measures providing security, extensive coverage and a significant portion of the country’s GDP being spent on public
Social Security expenditure though possessing relatively high per capita incomes, there are difference among the industrialized countries with respect to the objectives, scope, coverage, benefits and role of public and private sectors in providing Social Security. Nevertheless in general, “Social Security in developed countries combines three different elements: income tested Social Assistance designed to relive poverty, Social Insurance concerned with the provision of security and the spreading of income over the life cycle, and categorical transfers directed at redistribution between specific groups”. 7 Among the developed nations, the Scandinavian countries, France, Germany and United Kingdom are among the high-spending nations on public Social Security expenditure while the New Zealand, Portugal, Ireland, Canada, Australia, the United States and Japan fall under the medium spending countries.

There are also significant differences among the nations with respect to financing the Social Security. While Social Insurance is used in most countries to finance pensions, unemployment and sickness benefits, a few countries such as Australia and New Zealand depends largely on general taxation to finance some of the programmes. Social Assistance programmes on the other hand are financed through general tax revenue in all countries. However the raising cost of the social protection led the reduction of scope, level and range of benefits in many countries. A growing trend towards privatizing Social Security by replacing or supplementing government schemes by private schemes or contracting private

agencies to manage existing schemes is being observed and in some countries the universal rights-based programmes are being converted into targeted schemes with beneficiaries subjected to a means test.\(^8\)

On the other hand amongst the developing countries many of them do not possess effective Social Security coverage and a vast diversity in the Social Security policies can also be seen. The wide disparity in the rate of growth and development of these nations and correspondingly in their economic structures is regarded to be the cause for the limited social protection and the diversity in the policies. In South Asia, the emphasis is on membership-based social insurance and in East Asia private transfers within families and communities coupled with provident funds provide the bulk of Social Security provision. In both these regions of the world, the tax financed Social Security plays a secondary role. In Africa, with the exception of South Africa and neighbouring countries, all forms of Social Security are very limited. Latin American countries also possess Social Insurance systems with the tax financed Social Security having a residuary role.\(^9\)

However, it is well known facts that despite the difference, majority of these countries particularly the low income countries share the characteristics of widespread absolute poverty, extensive underemployment or unemployment and the lack of effective social protection.

In most of the developing countries, the initial effort was to develop Social Insurance schemes for wage and salaried workers in the organised sector and then to gradually extend the coverage to the excluded majority. The government’s focus in most of the countries is also on providing some basic services particularly with regard to health services, education and nutrition programmes for children and cash grants for the poor financed from tax revenues. In the low-income developing countries, majority of the population being in the informal sector, only 10-25 percent of the working population and their dependents are covered by statutory Social Insurance mainly for pensions and health care costs. In sub-Saharan Africa and South Asia, only an estimated 5% to 10% of the working population is provided Social Security coverage, the statutory Social Insurance system has so far not reached many groups of the working population.

In most developing countries at one end is the small minority of the work force who receive the Social Security benefits through protective measures adopted by the government and at the other end are those who are suffering from absolute poverty and who receive tax financed Social Security benefits consisting of transfers and services targeted on poor households or individuals, with the majority of the population in between being excluded from any kind of protection.

Among the developing nations, few middle-income countries with well performing statutory Social Insurance institutions have been able to extend Social Security effectively to the majority of their population. “There is a wide range of

---

middle-income countries that either have reached universal coverage in at least one of the Social Security branches such as the Republic of Korea, Costa Rica and Chile are making serious efforts to reach universal coverage such as Tunisia, Colombia, Brazil, the Philippines and Thailand.” While the Republic of Korea achieved universal health insurance coverage within a 12 year period, Tunisia increased personal coverage of health insurance, pensions, maternity and work injury benefits from 69% of the labour force in 1989 to 84 percent in 1999. Namibia, Botswana, Bolivia, Nepal, Samoa, Brunei and Mauritius are among the developing nations in the world apart from the only high income country, New Zealand providing universal pensions. At the same time few middle income countries also have brought major changes in their pension schemes. The pay-as-you-go (PAYG) systems are being substituted by the fully funded (FF) individual savings accounts and the provident fund schemes providing lump-sum payments at retirement are being changed to Social Security schemes providing periodical benefits. This shift is being considered to have been brought about by the factors such as ageing of the population, constraints on the financial resources of the governments.\textsuperscript{11}

The countries such as Singapore, Hong Kong and the province of Taiwan, China and Republic of Korea are the most successful developing countries in terms of economic and social progress and are considered to be on par with the developed countries. A common feature of the social policy of these countries is

the absence of a comprehensive Social Security system modelled after the developed countries. Instead their Social Security system is based on the policy of full employment with a rapid increase in wages. The role of the state in Social Insurance is more that of a regulator than provider. The quasi-governmental bodies manage various funds to which contributions are made and “this method has resulted in a fragmentation of schemes with little pooling of risk among them and a limited redistributive impact.”

The basic needs of the poorest segments of the population are attended through Social Assistance but the qualifying conditions are generally more restrictive. Besides placing a strong emphasis on the role of the family and the community in meeting the needs of the sick, the infirm and the old, noted features of the social policy of these countries is the high priority given to primary, secondary and tertiary education and public social expenditure accounting for a relatively smaller proportion of GDP. The Central Provident Fund (CPF) in Singapore is a mandatory savings system which comprises of three accounts, the Ordinary Account (OA) from which housing, pre-retirement investments and withdrawals may be made; Special Account (SA) meant for retirement; and Medisave account, a compulsory medical savings account. The contributions to

---

CPF are made by employers and employees and self-employed workers are also required to contribute to the Medisave account but not to the other accounts.\(^\text{13}\)

Latin American countries such as Argentina, Brazil, Chile, Cuba and Uruguay began to adopt elements of the European Social Security system during the inter-war period while Colombia, Costa Rica, Paraguay, Peru and Venezuela and other countries gradually adopted the Social Insurance method with coverage for health care, occupational injury and pensions after the Second World War and later. Contributory schemes provide most of the social protection for workers in formal structured employment and their families. The workers in the informal sector and jobless workers are excluded from the coverage and depend on government social assistance programmes. The risk of unemployment in Latin America being high and unemployment insurance existing only in a few countries with limited coverage (available to only some categories of workers in formal sector), the countries have introduced direct employment programmes and also provide assistance through cash subsidies. Though the direct impact of such programmes on unemployment rates and on beneficiaries is reported to be relatively low in most cases, they are considered to have helped to lower the levels of unemployment and poverty. In recent years the Conditional Cash Transfer’ (CCT) programmes aimed at providing social assistance and improving children’s human capital have been established in many Latin American countries. The conditional cash transfers provide money to poor families on

\(^{13}\) Ibid.
condition that they make investments in human capital such as sending children to school or bringing them to health centres on regular basis. The most popular type of programmes comprises a combination of health, education and nutrition. The conditionality attached to the programmes makes CCT programmes an instrument for short-term Social Assistance as well as long-term human capital investments. These programmes adopted by the countries across Latin American form an important part of the respective nation’s poverty alleviation strategies.

Thus, in developing countries in general the existence of the informal economy and a high share of workers engaged in it are regarded to be the reasons for the lack of effective Social Security coverage. Further, “the fundamental reason for exclusion from statutory contributory Social Security coverage is that many workers outside the formal economy are unable or unwilling to contribute a relatively high percentage of their income to financing Social Security benefits that do not meet their priority needs. In general they prioritize more immediate needs, such as health and education, in particular because structural adjustment measures have often reduced or eliminated access to free healthcare and primary education.” At the same time it has been proved that the basic social protection transfers such as basic non-contributory pension schemes have proved to be a potent means in the fight against poverty. The universal pension schemes providing cash benefits to the old and disabled have not only enhanced the status of the individuals in the families but also effectively provide support to the whole families. Further the measures taken up by some countries exhibit the fact that
even in the low-income developing countries, appropriate timely strategies adopted by the government can effectively extend the Social Security coverage to those in the informal sector who are hitherto excluded.

Hence in the developing countries also, the Social Security benefits can be afforded if initiatives are taken up by the government as well as the citizens. There is also every need on the part of the governments in the developing nations to make efforts to make increase their public Social Security expenditure which covers pensions, health care, employment injury, sickness, family allowance, housing and Social Assistance funds as it accounts for relatively small proportion of GDP when compared to the developed countries.

5.5 Central Government Initiatives

The various schemes initiated by the Central Government as Social Security measures are as under:

a. Indira Gandhi National Old Age Pension Scheme
b. National Family Benefit Scheme
c. Janani Suraksha Yojana
d. Handloom Weavers' Comprehensive Welfare Scheme
e. Handicraft Artisans' Comprehensive Welfare Scheme
f. Pension to Master craft persons
g. National Scheme for Welfare of Fishermen and Training and Extension
h. Janshree Bima Yojana
i. Aam Admi Bima Yojana
5.5.1 Labour Welfare Policies and five-year plans

In 1947 The International Labour Organisation Laid down the framework of labour welfare and spelt the services and amenities which should be included in this framework. These services related to the Provision of canteens, rest and recreation facilities, sanitary and medical facilities, arrangements for travel to and from works and such other amenities add facilities, as may contribute to improve the conditions under which the workers are employed. This can be regarded as the Directive Principles for Labour Welfare Workers in India.\(^{14}\)

With a clear guidance of what should normally be provided under welfare amenities to workers, from this highest organisation of labour in the world, the framers of Indian Constitution paid due attention to the amelioration of the working class of the country. The Indian Constitution has made suitable additions for their economic upliftment and social re-generation.\(^{15}\)

However, even before the adoption and promulgation of the Constitution, the base of the labour welfare amenities had been laid down. The Factories Act, 1948 provided for certain essential welfare services. For the provision of medical and health facilities to workers outside the work place, a comprehensive legislation in the shape of the Employees State Insurance Act was enacted. It

---


\(^{15}\) Ibid.
provides benefits to workers in the case of sickness, maternity and employment injury and also makes provision for certain other related matters.

The Central Government policy in the field of law has been to bring matter connected with workers welfare more and more within the purview of legislation setting appropriate standards. The Factories Act, 1948, the Plantation Labour Act 1951 and the Mines Act, 1952 are basic enactment which contains elaborate provision for safeguarding the health and safety of workers inside the workplace and for providing for their welfare. The Government of India also set up Labour Welfare Funds to provide welfare amenities for the workers employed in coal, mica, iron ore, manganese ore, limestone and dolomite mines and in the Beedi and Cinema industries. Separate Welfare Funds have also been formed for specified services like posts and Telegraphs, Ports, Dockyards etc. The welfare measures financed out of the funds relate to provision of medical, housing, drinking water etc. While most of the activities are administrated directly by the Welfare Organization under the Ministry of Labour, Loans and Subsidies are provided by the State Governments to the Local authorities and to the employers for implementation of approved prototype schemes.\(^{16}\)

The provisions of Social Security in the form of Employees State Insurance Scheme, Provident fund, gratuity and pension under various laws and industrial

---

\(^{16}\) Ibid. p.646.
housing schemes are some of the other prominent measures undertaken by the Central Government to promote welfare undertaken class.\textsuperscript{17}

The labour policy set out in the Five-year Plans since independence was based on the belief that the basic needs of workers for food, clothing and shelter must be satisfied. The first plan recommended many measures like the granting of occupancy rights for house-sites. And also support for the Bhoodan Movement, labour co-operatives, financial assistance minimum wages, etc. for the welfare of agricultural workers.\textsuperscript{18}

The Second Five-Year Plan stressed on the policy laid down in the First Plan with modifications that became necessary with the adoption of the goal of socialist pattern of society. There were new proposals for development programmes under labour and labour welfare. The Third Five Year Plan made no specific reference to labour welfare but stressed that for improving work efficiency, welfare within the establishment should be endured. As a part of the reoriented policy, cooperative activity was identified as a labour welfare measures. The Fourth Five –Year Plan made a significant allotment of Rs.145 crores for schemes for training and other programmes oriented to the welfare of workers. The Fifth Five year Plan made a provision of Rs.57 crores for the training of crafting, employment service and labour welfare.\textsuperscript{19}

\textsuperscript{17} Ibid., p.646.
\textsuperscript{19} Ibid.
The thrust of the programmes in the Sixth Plan was on the effective implementation of different legislative enactment regarding labour and special programmes for agricultural labour, artisans, handloom weavers, fishermen, leather workers and other organised workers in the rural and urban areas. The plan emphasised vocational rehabilitation of the physically handicapped, apprenticeship and training schemes, organisation of rural workers, and problems of bonded labour, child labour, women labour, contract labour, construction labour, inter-state migrant labour, migrant shepherds, and dairy cattle owners.

The thrust of the Seventh Plan was the improvement of capacity utilisation, efficiency and productivity. An important aspect of labour policy outlined in the Seventh Plan relate to the formulation of an appropriate wage policy and provision for the welfare and working and living conditions of unorganised labour not only in the rural sector but also in urban areas. The Eighth Plan said the improvement in the quality of labour, productivity, skills and working conditions and provision of welfare and Social Security measures especially of those working in the unorganised sector, were crucial elements in the strategy for quantitative and qualitative enhancement of the status of labour. The plan also laid emphasis on the enforcement of labour laws especially law relating to unorganised labour and women and child labour.20

---

However, it has to be admitted that the five-Year Plans did not formulate an integrated and comprehensive scheme of Social Security for unorganised labour.\footnote{Ibid.}

5.6 State Level Initiatives

In most of the States and the Union Territories welfare centres has been established to promote welfare activities for the workers and in a number of States, welfare funds have been constituted under the Acts. In these centres, facilities are provided for games, recreation library, etc.

In Andhra Pradesh, 12 Labour Welfare Centres were functioning in 1980-81 at different places for the benefit of industrial workers and their dependents and provide recreational, educational, audio visual, Games Crafts, Nursery School and Health.

Beside, a statutory fund was created for financing welfare measures for plantation workers in Assam. \textit{This fund was created under the Assam Plantation Employees Welfare Fund Act, 1959}. This welfare fund consisted grants from the Central/State governments, the Tea Board, unclaimed wages and donation. The money of the Fund is utilised for activities such as adult education and literacy drives, maintaining community and social education centres, organising games and sports, excursions, tours, running holiday homes, providing training in subsidiary occupations and home industries for women and employed persons.
In Himachal Pradesh, the Labour Welfare Centre at Palampur continues to provide usual welfare facilities including in training in sewing and embroidery to women workers of plantations. In Jammu and Kashmir, there are five Labour Welfare Centres functioning within the State and five outside the State for workers migrating from the valley to the plants. This centre provides facilities for recreation, sports, newspaper, etc., as also free medical aid to the worker.


Such funds are created almost in every State and welfare activities are financed from these funds. Generally, State Governments run welfare and provide following welfare facilities through them.

Recreational facilities like indoor and outdoor games, cultural activities, sports, children sports, adult educational, classes schooling of children up to nursery classes, library and reading rooms, vocational training, cultural programmes, training in tailoring and sewing, knitting, lace making leather and other handicrafts, medical aid, maternity and child welfare facility. These services are provided at various labour welfare centres in accordance with the need of
industrial workers. Each centre undertakes some of these services in the light of its own finance and convenience.

The local bodies of the government like municipal corporations, municipal councils, panchayats etc. are given powers to make provisions for the welfare of the workers within their jurisdiction. The Bombay Municipal Corporation had set up a Special Welfare Department through which it organizes 15 welfare centres. These welfare centres are mostly located in the chawls of Mill workers, they assist in formation of co-operation society and provide educational facilities a nursery school, indoor and outdoor games, film shows and has organized maternity facilities as well.\(^{22}\)

The Madras Municipal Corporation has set-up centres for adult education through night schools, a crèche and a canteen in the corporation’s workshop. The crèche, under the care of a nurse and two attendants, provide workers children with cradles and toys, playground and a bathroom. A nursery school is conducted where poor children get mid-day meals in addition to milk. Co-operative Societies are also run by the Madras Municipal Corporation. The Municipal Corporation of Calcutta has also provided somewhat similar facilities to the workers. The municipalities of Ajmer, Delhi and Kanpur have also made provisions of welfare facilities of the workers. All municipalities and corporations

provide provident fund benefits. Many have made provision for retirement of gratuities as well.23

**5.7 NGOs’ Intervention in the Social Security for Unorganised Sector Workers**

A large number of voluntary and people’s organisations are involved in providing a measure of protective Social Security to workers and their families in the unorganised sector in the country. However, such provision is often part of a larger package of services that include promotional Social Security such as access to micro-credit, housing, preventive healthcare and employment. I have selected organisations in the voluntary sector, which provide protective Social Security in one way or another.

According to the data collected by the International Labour Organisation’s (ILO’s) New Delhi Office, the total number of individuals covered by various Social Security schemes undertaken by NGOs is around 33.51 lakh. In addition, about 1.06 lakh households have been covered as beneficiary units under various schemes. Further, community schemes cover around 40 villages. If all these are converted into individual coverage, it would amount to around 48 to 50 lakhs. This accounts for about 1.5 per cent of the estimated workforce in the unorganised sector. Even if we assume that a number of small organisations might have been left out of the data set, it is quite unlikely for the entire voluntary sector coverage

---

23 Ibid., P. 674.
to be more than two to three per cent of the total workforce in the unorganised sector.

It should be emphasised that most Social Security schemes in the voluntary sector were initiated in the early 1990s. Out of the 43 schemes for which data were available, 70 per cent were started in the early 1990s, and 30 per cent between 2000 and 2003. This indicates that the issue of protective Social Security has recently entered the agenda of the voluntary sector. Out of the 45 schemes for which data were available, 45 per cent accounted for coverage of less than 10,000 members, 40 per cent covered 10,000 to 100,000 members, while the remaining accounted for coverage of more than 100,000 members. This includes a scheme that covers 100,000 Households.

The predominant form of Social Security provided by these organisations was in terms of the coverage for health-related risks. 34 schemes out of all the Schemes have provided health insurance services. The next item accounting for the maximum coverage was insurance cover for death under 28 schemes followed by 13 schemes providing cover for disability. Maternity benefit (2 schemes) and old age pension (4 schemes) were quite low in the order of priority. Most of the schemes dealt with single risk (38), mostly in the area of health insurance. While nine schemes covered two risks, eight covered three risks, and only one scheme covered four risks.

The Bombay Social Service League, started by the Servants of Indian Society, conducted several activities, like promotion of education through night
schools, libraries, recreation and sports. It has also secured compensation for accidents to workers, propagated the co-operative movements, promoted public health and the boy movement etc.

The Poona and Bombay Seva Sadan Societies have taken keen interest in providing educational, medical and social services to the women and children. They also trained social workers for this purpose.

In Bengal Women’s Institute has established Mahila Samities, which visit to various villages and carry out educational and public health work.

Besides, the Y.M.C.A., the Bombay Presidency Women’s Council, the Maternity and Infant Welfare Association, the Depressed classes Mission Society are some of the voluntary social services agencies which have taken interest in the welfare work for industrial workers.

The voluntary social service agencies can play a more significant role in the better administration and utilization of welfare services made available by the Government. The proper operation of statutory provisions relating to welfare can only be ensured by a strong public opinion, which in turn can be created by sustained efforts of voluntary organizations. These organizations have also played a very significant role in the industrial countries.24

In the context of employers’ activities in the sphere of welfare, Dr. B.R. Seth observed that “the vast majority of industrialists in India still regard welfare work as a barren liability rather than a wise investment”.

---

24 Ibid., p.675
It may be inferred from it that most employers were indifferent towards the welfare works for their employees in the beginning of 20th century. However, there were very few employers who took the initiative in the welfare measures for the betterment of their workers. In 1915, the Calico Mills in Ahmadabad started medical services for their workers by appointing a doctor and nurse.

In 1918, in Bombay, the Tatas started a medical unit in one of their mills, which has not become the industrial health department. In 1920, in Delhi, Lala Shri Ram of Delhi Cloth Mills started housing for workers and a few other activities.

In these years, Birla Mills in Delhi, British India Corporation in Kanpur, the empress Mills in Nagpur, the Bunny Mills in Madras and Tata steel company in Jamshedpur had initiated Labour Welfare Programmes which were mentioned even in the Report of Royal Commission on Labour in India in 1931.25

In Jute Mill Industry, the only employers’ organisation which has undertaken direct responsibility for organising welfare work for its member units is the Indian Jute Mills Association. It organised labour-welfare centres at different places, which carry out the usual welfare programmes. Beside, individual Jute mills also carry on welfare work for the workers and the provided Labour Officers although in some they are designated as Personnel or Welfare Officers.

---

Officers. Thirty two welfare Centres in West Bengal and one in U.P. are run by individual Jute mills.\textsuperscript{26}

Woollen Textile Mills have varying standard of welfare activities, i.e. the standard of welfare work varies from unit to unit. The prominent mills which are providing welfare activities in extensive scale are the Dhariwal Woollen Mills, the Kanpur Woollen, Raymond Woollen Mills, and the Mahalakshmi Woollen Mills, Bombay, Lal Imli Woollen Mills and a special Woollen Mills, Kanpur. This concern has got a separate welfare section to look after labour welfare. Its main welfare activities are: provision of free education up to upper primary standard; recreational facilities; reading rooms and library; canteen etc. the social and religious functions on a collective basis are of great important in the industrial establishments. A Community Hall is also maintained by the management of this undertaking. There are also two schools for boy and girls of the factory workers.

Most of the units in the Cement Industry maintain well-equipped hospitals manned by qualified medical officers where the workers and their families are given free medical officers where the workers and their families are given free medical treatment. Most units have also canteen which supply tea and snacks at cheap rates and almost all have clubs with provisions for indoor and outdoor games and reading rooms. The buildings and equipment for the schools are

provided by the management and education is free. Most of the units employing women have provided crèches.  

In Sugar Industry the standard of welfare work varies from unit to unit. A majority of the units have provided medical facilities to their workers. In some cases hospitals are also maintained. Canteens have been started by some of them while most of the units provided educational facilities. Some of them have got their own schools, while other give financial assistance to the schools attended by the workers’ children Almost all units provide recreational facilities like sports, libraries, reading room and radio sets for the workers.

It has been noticed that the voluntary welfare work undertaken by employers, in many cases has been done grudgingly and in a patronizing spirit. There has been very little real spirit of service and thing has usually come from them in an ill-grace. Many workers loom on the welfare work undertaken by the employers with suspicion. The fear has been expressed that unless the workers are on their guard, “welfare” may be substituted in effect for part of the wages. Such vindictive use of welfare activities must necessarily have unfortunate consequences in the long run.

The contribution of the Textile Labour Association, Ahmadabad in organising labour welfare activities has been very impressive. It actively participates in intra-mural as well as extra-mural welfare activities. The TLA spends a fair share of its income on welfare facilities. According to The Report of

---

Welfare Committee, 1969, which is popularly known as Malviya Committee, it spends 60 percent to 80 per cent of its income on welfare activities. It has undertaken the problem of slum areas with the help of over 250 volunteers, who were trained for this work, which covers the problem of community life as well.\(^{28}\)

With Janata Insurance Policies and other programmes to relive workers from poverty and unemployment, the TLA encouraged small saving among the workers. It has started a Workers Cooperative Bank to which are attached consumer societies, many credit societies and also a number of workers housing cooperative society. Besides, the Textile Labour Association runs a number of reading rooms and libraries in working class localities. It also runs typewriting classes in working class localities. In the same way, women training courses in sewing, embroidery, etc., were being conducted. It provides legal help to worker-member when they are involved in industrial disputes, and trains them in trade unionism and citizenship.

The Malviya Committee Report on Welfare said that the following figures speak the creditability of the TLA’s welfare activities. The Association maintained 22 centres for training women in handicrafts; two study homes and one hostel for girls; five nursery schools; 16 welfare centres for the children; 39 consumers cooperative stores; 59 cooperative credit societies; 193 housing

societies among the working classes, under the Cooperative Housing Scheme, the workers had constructed 1089 houses during the year 1970-71.\(^{29}\)

The Mazdoor Sabha of Kanpur has also some work in the field of labour welfare. It has maintained a reading room, a library and also a dispensary for the workers. It organizes social and cultural gatherings.

The Indian Federation of Labour has organised nearly 48 labour welfare centres which undertake different types of welfare activities. It organizes indoor and outdoor games, medical educational and recreational facilities through labour welfare centres.

Now, other workers organizations are also taking interest in this aspect of workers life outside the factory. The TLA itself has expanded its work with a view to encourage the spirit of self-help and co-operation among workers families.

The National Commission on Labour pointed out that similar works are also done in plantations. The commission also pointed out those educational/cultural programmes is increasingly becoming a part of the activities of well organized unions.\(^{30}\)

Therefore, it can be concluded that welfare work should be considered a joint responsibility of the employers, the State and the trade unions. They should all work in harmony to raise the standard of living of the workers. The problem or

\(^{29}\) Ibid p. 673,

\(^{30}\) Ibid.
workers’ welfare is of such a great magnitude that no single agency alone can tackle it successfully.

On the whole, however, the State should take the responsibility of seeing that the lot of workers is improved, and happily, in most of the civilized countries of the world, the Governments have become aware of the importance of welfare work and big schemes of labour welfare and Social Security have been adopted by them. In India, a beginning has been made in this direction but still there is a great scope for improving and extending the welfare activities for the working classes in the country.

5.8 Unorganized Workers’ Social Security Act, 2008

This Act provides for constitution of a National Social Security Board at the Central level which shall recommend formulation of Social Security schemes viz., life and disability cover, health and maternity benefits, old age protection and any other benefit as may be determined by the Government for the workers in unorganized. The National Social Security Board was set up as per the mandate of the Act on 18/08/2009. It has held many meetings and recommended for extension of the coverage of Social Security schemes viz., Janshree Bima Yojana, Rashtriya Swasthya Bima Yojana and Old Age Pension Scheme to certain category of unorganized workers.

Some of the important definitions under the Act are as under:
i. "home-based worker" means a person engaged in the production of goods or services for an employer in his or her home or other premises of his or her choice other than the workplace of the employer, for remuneration, irrespective of whether or not the employer provides the equipment, materials or other inputs;

ii. "organised sector" means an enterprise which is not an unorganized sector;

iii. "registered worker" means an unorganized worker registered under sub-section (3) of section 10;

iv. "self-employed worker" means any person who is not employed by an employer, but engages himself or herself in any occupation in the unorganized sector subject to a monthly earning of an amount as may be notified by the Central Government or the State Government from time to time or holds cultivable land subject to such ceiling as may be notified by the State Government;

v. "unorganized sector" means an enterprise owned by individuals or self-employed workers and engaged in the production or sale of goods or providing service of any kind whatsoever, and where the enterprise employs workers, the number of such workers is less than ten;

vi. "unorganized worker" means a home-based worker, self-employed worker or a wage worker in the unorganized sector and includes a
worker in the organized sector who is not covered by any of the Acts mentioned in Schedule II to this Act; and

vii. "wage worker" means a person employed for remuneration in the unorganized sector, directly by an employer or through any contractor, irrespective of place of work, whether exclusively for one employer or for one or more employers, whether in cash or in kind, whether as a home-based worker, or as a temporary or casual worker, or as a migrant worker, or workers employed by households including domestic workers, with a monthly wage of an amount as may be notified by the Central Government and State Government, as the case may be.

As per the provisions of Chapter V pertaining to Registration the eligibility criteria laid down for registration to avail Social Security benefits is as under:

i. Every unorganized worker shall be eligible for registration subject to completion of fourteen years of age and giving a self-declaration he is an unorganized worker.

ii. Every eligible unorganized worker shall make an application in the prescribed form to the District Administration for registration.

iii. Every unorganized worker shall be registered and issued an identity card by the District Administration which shall be a smart card carrying a unique identification number and shall be portable.
iv. If a scheme requires a registered unorganized worker to make a contribution, he or she shall be eligible for social security benefits under the scheme only upon payment of such contribution.

v. Where a scheme requires the Central or State Government to make a contribution, the Central or State Government, as the case may be, shall make the contribution regularly in terms of the scheme.

Under the Act, the Central Government is empowered to make appropriate welfare schemes related to:

i. life and disability cover;

ii. health and maternity benefits

iii. old age protection; and any other benefit as may be determined by the Central Government

The Act however does not make it mandatory for the government to introduce new welfare schemes. It unfairly divides unorganized workers into those below the poverty line and those above, and is silent on a national minimum wage, improving working conditions and the problems of women workers like unequal pay and sexual harassment at the workplace.

5.9 Unorganised Non-Agricultural Workers’ Conditions of Work And Social Security Bill, 2007
The unorganised non-agricultural workers in the Unorganised Sector face problems that arise out of deficiency or capability deprivation in terms of inadequate employment, low earnings, low health, etc., as well as of adversity in the absence of fall back mechanisms (safety net). These workers have limited or no formal Social Security cover which increases their vulnerability during times of illness, old age, unemployment and untimely death. The absence of Social Security mechanisms is a critical factor in downturns in the conditions of these households, many of whom are already very poor. It destroys the workers ability to contribute meaningfully, and to increasing production and productivity. It leads to disaffection increasing social costs, widespread crimes, and persistent ill health. Presently, less than 6% of the entire unorganised sector workforce has recourse to any Social Security cover.

5.9.1 Objectives, Coverage and Eligibility

To provide for a right based entitlement for the unorganised non-agricultural workers, and to provide for a universal national minimum Social Security scheme to cover all the workers in the unorganised non-agricultural sector in a phased manner within a period of 5 years. This scheme may be called the National Social Security Scheme, 2007.

This scheme applies to all unorganised non-agricultural workers, hereafter referred to as ‘worker’ to whom the Act extends who has completed 18 years of age; whose monthly income does not exceed Rs.7000; who has submitted a
prescribed self-declaration form confirming that he/she is an unorganised non-agricultural worker; and has paid the contribution/fee as prescribed.

5.9.2 Benefits

The National Social Security scheme shall provide for a package of the following minimum benefits:

Health Insurance is provided to each worker will be entitled to hospitalization for himself and his family members, costing Rs. 15000 a year in total with Rs. 10000 maximum per ailment in designated, hospitals or clinics, public or private, recognized by the State Board, with at least 15 beds. If there is no such clinic available within 10 kilometres from the worker's residence, he would be entitled to a transport cost to the nearest hospital on actual upto a maximum of 5% of hospital cost. All payments will be made by the insurance company to the clinics/hospitals directly and except for the transportation cost, no cash payment will be made to the workers;

Maternity Benefits of Rs. 1000 maximum or actual for the member or the spouse, per year; Sickness covers of Rs 750 for earning head of family (during hospitalisation) for 15 days (only in excess of 3 days) during the policy period @ Rs 50 per day and Life and disability cover in case of Natural Death: Rs. 30,000. In case of Death or total disability due to accident: Rs. 75,000. In case of Partial Permanent Disability due to accident: Rs. 37,500.
Old Age Security is given to the eligible workers. All BPL unorganised non-agricultural workers will get a monthly pension of Rs. 200 at 60 plus. This would be irrespective of the year of his/her registration with the scheme.

All unorganised non-agricultural workers other than BPL and registered in the scheme will be entitled to a Provident Fund which will accumulate to his account from the year of his/her registration.

At the end of 60th year the APL unorganised non-agricultural worker will have 3 options. He can continue with the provident fund scheme by contributing the full premium i.e. both the government’s and his contribution, or, withdraw the whole amount of the Provident Fund accumulated to that date, or alternatively, he could buy an Annuity with the accumulated amount and the returns would be like his pension.

The Provident Fund Scheme can also be used as unemployment insurance. After 10 years’ contribution, the worker, if he becomes unemployed and is verified to be so by the Workers Facilitation Centre (WFC), he would be entitled to draw up to 50% of the accumulated sum as unemployment benefits for a period of 6 months. After six months or before that if he becomes employed again, the worker will be able to continue with the scheme by renewing his contribution.

5.9.3 Organization

The organization model is federal in character where the implementation will be the responsibility of the State Social Security and Welfare Board for unorganised non-agricultural workers (SSSWB) with the assistance of WFC at the
grass root level, supervised and monitored by the National Social Security and Welfare Board. The structure is as follows:

a. There will be a National Social Security and Welfare Board (NSSWB) at the central level, representatively constituted, with the central government as the prime mover. This National Board will be supervising and monitoring the implementation of the scheme at different levels and will also be responsible for running the National Social Security and Welfare Fund (NSSWF). At the state level there would be a State Social Security and Welfare Board for unorganised non-agricultural workers (SSSWB), representatively constituted, which will be the main implementing agency at the grassroots level through Workers Facilitation Centre (WFC).

b. The WFC would be appointed by the SSSWB, keeping in mind the need to make them as representative as possible with the participation of institutions/organisations listed under section 27(1) of the Bill. WFC would perform the various functions as listed in section 27(2) of the Bill.

c. SSSWBs will negotiate with the insurance agency and other service providers with the help of National Social Security and Welfare Fund (NSSWF), the best possible terms for providing the prescribed benefits and also the selection of health care institutions.
d. SSSWBs would also set up their State Social Security and Welfare Fund (SSSWF) from sources specified in section 17, which would accumulate till they are transferred to the accounts of the beneficiaries held by the designated institutions such as Post Offices/Banks. National Social Security and Welfare Fund (NSSWF) contribution should also be deposited with SSSWF for being transmitted to the workers account once the scheme starts implementation.

5.9.4 Financing

The scheme would be financed by the National Social Security and Welfare Fund (NSSWF) through any of the sources as specified in section 8 of the Act. However, the share of contribution of the BPL workers, if any, would be borne by the Central Government. The total outlay of the scheme proposed for unorganised non-agricultural workers when all of them are covered is estimated at Rs 12954 crore, which may be entirely borne by the Central Government. If however, the total cost is shared between the Centre and States in the ratio of 75:25, then, the Centre’s and the State Governments’ share is estimated at Rs 9715 crore and Rs 3239 crore respectively. The share of both Centre and States could be further reduced, if contributions of employers and workers or tax/cess as mentioned are available.
5.10 Law Providing for Social Security for Unorganized Workers

Instead of Social Assistance schemes for unorganized workers this subject argues for a broad-based Social Assistance covering the entire country. A concerned effort towards increasing the quantum of social spending on the basic needs of all citizens can make a world of difference to the quality of life. Historical evidence suggests that the protective security systems that are widespread in the developed countries are the outcome and not the cause of improved living standards and productivity levels.

The Government of India appointed a commission under the chairmanship of Arjun Senguptha. He submitted his report recommending the adaptation of a national legislation for Social Security cover to more than 300 million workers in the unorganized sector. The commission was appointed in 2004 with a mandate that included preparation of status reviews of informal sector enterprises, labour laws and Social Security systems along with the prescription of strategies for enterprise development and employment promotion. The commission has compressed the terms of reference into two items:

a. A draft bill proposing a national Social Security schemes for the informal sector workers along with a report elaborating the proposed legislation; and

b. A future report, in justification of the bill, dealing with working conditions and livelihood of unorganized workers.
One would have expected its sequencing to be the other way, for it is the justification for a national legislation that is conspicuously missing in the commission’s work. In any developed country the purpose of such legislation would have been to protect and legitimize what was already attained as standards in the world of work. Here, we try to reverse this process; first create a legislative framework expecting that the right institutions will emerge to fit the framework. The policy-makers seem to take for granted that, if and when national legislation can be modelled after an “intelligent design” of industrially advanced countries, the institutions underpinning that legislation will fallow without the country ever having to go through an evolutionary process.

The relevant institutions cannot be whisked into existence since they need to mature through a structural transformation of the entire economy. There is no rich country in the industrialized world offering Social Security benefits to workers, which has escaped the hard task of evolving their security institutions in course of individual of industrial advancement. There is no way India or any industrial country can jump the gun or short-circuit this process, especially the early stage of nurturing the foundational institutions that should provide primary healthcare, education and environmental sanitation to the whole population. Perhaps, with the right mix of social policies the pace of change could be accelerated, enabling the nation to take the high moral ground of legislating Social Security for all.
5.10.1 The Target Groups

The commission defines unorganized sector workers as those in all unincorporated private enterprises engaged in the production and sale of goods and services, operated on a proprietary or a partnership basis and employing less than 10 persons. The number of workers in the informal sector—both men and women—ought to be covered through Social Security schemes comes to a total of 300 million. The projection of expenditure for and future returns from Social Security schemes are based on the recent estimates of worker participation rates. These rates are likely to increase by a considerable margin in the course of the next two or three decades, and so are the cost estimates.

The commission is keen on the area of registering all informal sector workers and enterprises to enable them to “receive all forms of support and assistance from the government”. The model recommended for extending Social Security to all in the unorganized sectors premised on the registration of each worker as party to an employment relationship in enterprises or operations irrespective of size. The registered worker will be entitled to an identity (ID) card valid in all parts of the country. The simple truth is that India does not have an institutional capacity for identifying such workers, let alone collecting contributions from them or their employers. Even with low participation rates there is a conspicuous absence of any arrangement for recording of the numbers employed, not to mention the terms and conditions of their employment.
A contributory scheme at the rate of Rs 1 per worker per day, as envisaged by the commission to be collected from the three parties: the worker, employer and the government is based on the assumption that all beneficiaries of the scheme are engaged in durable employment relationships. Unfortunately, this is not the case with an increasingly large body of casual workers both in urban and rural areas. Nor can we be naïve to imagine that all informal sector employers will contribute even tiny amounts of money to a worker’s fund for all 365 days of the year.

It is not easy to identify employment relations in the construction sector, where both employers and contractors are unlikely into any durable relationships. Given the predicament of unidentified employment relationships in many enterprises, would it be feasible to start welfare schemes, deemed to be funded with contribution from workers as well as employers? It is well known that many employers, irrespective of the size of the enterprises, are loathe entering into any records of public authorities for fear of regularity sanctions. The size criterion applied to small enterprises has always been used as a façade against any supervisory regime. The track record of the state in regulating or supervising employment relations among enterprises above the minimum threshold of “10 employees” is not credible.

If we were to do a serious job of extending the social protection nationwide to the entire unorganized sector, some important prerequisites need to be put in place. They are:
a. An administrative machinery that can record all enterprises and employers irrespective of size

b. Public awareness of the benefit that can be canalized through social protection schemes

c. Appropriate incentives to workers and employers for participation in and contribution to the welfare schemes.

The commission presents a glossy picture of the experience of other developing countries in launching and organizing social protection programmes. The review of international experience made in the report suggests that most Social Security schemes are based in urban societies. Countries like Tunisia and Brazil with much higher levels of urbanization and per capita income have, indeed, developed some attractive institution. They are not necessary replicable in a predominantly rural society, likely to remain so for several more decades to come. Possibly there are some lessons to be learned from China which has experimented with community-based contributory schemes for health care with the government paying part of the costs.

There is very little to show that India has made any progress with Social Insurance programmes even in the urban areas. There is a compelling case for targeting assistance primarily on the working poor in rural areas. Such assistance could be supplemented with institutional arrangements for meeting these perennial needs for health care, pensions and special contingencies through group based Social Insurance schemes. In general, the group insurance schemes are cost
effective; they operate on the principle of collective risk-sharing and their ownership rests with the beneficiaries who share the cost of administering them. Often they are anchored on the voluntary initiatives of beneficiaries, most notably workers’ organizations in different occupational categories, thereby making it possible to extend the benefits to a broad spectrum of participants.

In the long run, there is no alternative to developing a fully-funded Social Security system premised on predefined contributions and benefits. Nonetheless, a funded system under which individual contributors can top up their benefits in terms of healthcare, employment insurance, accidents and contingencies care, old-age pensions and other safeguards can be built only on a foundation of tax financed social assistance and group financed insurance schemes. The state can nurture the development of both Social Insurance and fully funded security schemes through guaranteeing the real value of all contributions made by the beneficiaries.

5.10.2 Welfare Funds and Other Programmes

The commission takes note of the fact that there are many commendable initiatives of both the central and state governments providing rudimentary forms of Social Assistance to the poor in the form of pensions, maternity benefits, nutrition and child care. Such initiatives happen to be confined to a small majority of the unorganized workers. They operate mainly through welfare funds applicable only to the selected categories of workers. The proposed national
legislation is meant to consolidate and build on the welfare funds. However, based on the experience of such funds, especially in Kerala, which has been projected as the epitome of good practices in the field, one cannot help raising some doubts about their reach and effectiveness.

Many trades for which welfare funds have been established happen to be fading out and the number of workers therein declining on account of the structural transformation of industries and occupations. Durable employment relations are shrinking in the plantations and processing industries which are vulnerable to the vicissitudes of markets. The same applies to a number of occupations such as ‘toddy’ tapping, weaving, carpenting and ‘beedi’ rolling. The possibility of levying a cess on transactions is limited in the case of many services sector workers such as hair dresses and washermen, raising concerns about the sustainability of welfare funds.

Without detracting from the merits of social policies followed in Kerala, one is inclined to question the claim that more than 50% of all unorganized sector workers are covered by the welfare funds. The state’s narrative on the labour welfare fund for plantation workers and the artisans and skilled workers fund leaves some questions on their content and reach unanswered. The source of funds and the nature of benefits extended to 0.84 million agricultural workers and 1.07 million construction workers in the state need to be clarified. If these funds survive entirely on social assistance, it is time to put them on a sound footing with contributory schemes.
In West Bengal too the reach of some fairly impressive welfare schemes, for instance, the provident fund for unorganized workers, appear to be low. The presence of welfare funds is disturbingly low among some of the larger states of northern India. If, indeed, they do exist, there is a pronounced urban bias in their location and coverage. Perhaps, it is time to pause and audit the funds, taking into account the number covered, resources mobilized and the benefits conferred on different target groups. It is also worth exploring why a number of pilot schemes aimed at unorganized workers have failed to take off in spite of the fact they promise impressive benefits and demand less as contributions by the workers and employers.

All the same there are valuable lessons to be learnt from the operation of welfare funds. First, the funds are useful conduits for diverting Social Assistance such as pensions, food and medical aid to the needy populace. They have proved to be affordable in all states which have shown a political will for their adaptation. The funds also provide an organizing framework for launching viable Social Insurance schemes for healthcare, accident cover and educational facilities addressed to different groups of beneficiaries. These initiatives prove that targeted minimum support programmes are practical and that they can be expanded both in terms of reach and content.

5.10.3 Priorities for Action
A universal system of Social Assistance targeted to the needy, supplemented with Social Insurance schemes should receive absolute priority by the policy makers. To achieve this we can only go in stages. Waving the magic wand of a make-believe legislation will not take anyone to that destination. On the other hand, a concerted effort towards increasing the quantum of social spending on the basic needs of all citizens for education, health, drinking water and a clean environment can make a world of difference to their quality of life.

We have many labour laws in our books all of them do not cover workers engaged in unorganised sector. All of them are not applicable, and were not meant to be applicable to the employments in the unorganised sector. Some are applicable. But none of the laws that form the base of the Social Security system covers the whole unorganised sector. There are laws that apply wholly or partly to this sector.\(^{31}\) These laws are: The Factories Act, 1948, The Minimum Wages Act, 1948, The Equal Remuneration Act, 1976, the payment of wages Act, 1936, The Industrial Disputes Act, 1947, The Workmen Compensation Act, 1923, The Payment of gratuity Act, 1972, Unorganised workers Social Security Act, 2008 etc. Which are applicable to the workers in the unorganised sector where there is an identifiable employers-employee relationship. In some of the employments or avocations, contractors are in some of the employments or avocations, contractors are engaged, and this result in a situation in which the principal employer does not

come into the picture such as in building/construction activity, beedi rolling, mining (particularly stone mining) or quarrying, and various other occupations. These workers are sometimes covered under more than one law e.g. The Contract Labour (Regulation and Abolition) Act, 1970, as well as under one specific law or another like Beedi and Cigar Workers (Conditions of Employment) Act, 1966, Building and other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1966 etc.

Even though existence of these beneficial laws, the benefits and facilities prescribed under these laws are denied to them in most cases. We have no escape from concluding that more than 90% of our workforce does not enjoy the minimum protection and security that they need. This is a situation which should shame all those who talk of care and commitment to the responsibility for ensuring the rights and welfare of our people, in particular, the overwhelming majority of our people who are in the labour force. Hence there is strong need and necessity to extend the facilities to the workers in the unorganised sector.

5.10.4 Social Legislations

a. The Insurance Act, 1938

The legislation relates to the business of insurance and is applicable to the whole of India. The Act ensure that the conduct of the insurance business by the insurers is in the interest of the policy holders and the enactment of the Insurance

32 Ibid.
Regulatory and Development Authority Act, 1999 led to many amendments in the Act through which it is proposed to not only regulate and develop the insurance sector but also envisages the development of infrastructure and social sectors through insurance. The Act lays down that only public companies, societies registered under the Co-operative Societies, and companies not being private companies incorporated under the law of any country outside India are eligible to carry on insurance business and makes it mandatory to obtain a certificate of registration from the insurance Regulatory and Development Authority to Carry on the particular class of insurance business and to also to renew the registration every year.\(^{33}\) The Act also stipulates that for obtaining the registration the insurers, carrying on the business of life insurance as the business of effecting contracts of insurance upon human life, including any contract whereby the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, and any contract which is subject to payment of premiums for term dependent on human life and shall be deemed to include-

a) The granting of disability and double or triple indemnity accident benefits, if so provided in the contract of insurance.

b) The granting of annuities upon human life; and

c) The granting of superannuation allowances and annuities payable out of any fund applicable solely to the relief and maintenance of persons

\(^{33}\)Section 2C and Sections 3, 3A of the Insurance Act, 1938.
engaged or who have been engaged in any particular profession, trade or employment or of the dependents of such persons. \textsuperscript{34}

The General Insurance Company should possess a paid-up equity capital of rupees one hundred crores and in case of one who is carrying on exclusively the insurance business as a re-insurer, the paid-up equity capital is two hundred and crores. \textsuperscript{35} It also lays down that every insurer carrying on the life insurance business has to deposit a sum equivalent to one percent of the total gross premium in a financial year and nor exceeding rupees ten crores with the Reserve Bank of India and in case of general insurance the amt that is to be deposited is three percent of the total gross premium. \textsuperscript{36} Every insurer shall invest only in the approved investments under the Act and is prohibited from investing funds of the policyholders directly or indirectly outside India and also ensure that at all times the invested assets are equivalent to not less than the sum of the amount of the liabilities to holders of life insurance policies on account of matured claims and the amount required to meet the liability on policies of life insurance maturing for payment. \textsuperscript{37} Further, the Insurance Regulatory and Development Authority are empowered to give specific directions to insurer through regulations regarding investment in the infrastructure and social sectors and to protect the interest of the policy holders. \textsuperscript{38} The Act also empowers the Authority to issue directions to insurers generally or to any insurer in particular in public interest; or to prevent

\textsuperscript{34} Section (11) of the ESI Act, 1938
\textsuperscript{35} Section 6 of the ESI Act, 1938
\textsuperscript{36} Section 7 of the ESI Act, 1938
\textsuperscript{37} Sections 27, 27A, 27B & 27C of the ESI Act, 1938
\textsuperscript{38} Section 27D of the ESI Act, 1938
any action of the insurer or insurers which is detrimental to the interest of the policy which is detrimental to the interest of the policy holders; or in a manner prejudicial to the interests of the insurer; or generally to secure the proper management of any insurer. The Insurance Regulatory and Development Authority is also been given the authority to remove any director or the chief executive officer of the insurance company from office in case of requirement of fulfilling the above mentioned objectives.  

39 The Act specifically directs that insurers should conduct the business in such a manner as specified by the Insurance Regulatory and Development Authority so as to provide life insurance or general insurance policies to the persons residing in rural areas and workers in the unorganised sector and for economically vulnerable or backward classes of the society.  

40 The Act also prohibits the insurer form granting any loans or temporary advances except the loans on life policies issued and to a banking company. The insurer is also permitted to grant loans or advances to its parent company or to a subsidiary company but has to report to the Insurance Regulatory and Development Authority within thirty days of granting of such loan or advance.  

41 The Act also lays down that any amalgamation and transfer of life insurance business shall only be in accordance with the scheme prepared by the Insurance Regulatory and Development Authority if it is satisfied that such amalgamation

39 Section 34 & 34B of the ESI Act.1938
40 Sections 32B & 32C of the ESI Act.1938
41 Section 29 of the ESI Act.1938
and transfer is in the interest of public and policyholders as well as in the interest of insurance business of the country as a whole and also to secure the proper management of an insurer.\textsuperscript{42} Further the Act also directs the Insurance Regulatory and Development Authority to submit a report to the Central Govt if it is of the view that an insurer carrying on life insurance business is acting in a manner affecting the interests of the holders of life insurance policies and the Central Govt after considering the report may appoint an Administrator to manage the affairs of the insurer under the direction and control of Authority.\textsuperscript{43} The Act also mandates the insurer to re-insure with Indian re-insurers under the specifications of the Insurance Regulatory and Development Authority and the previous approval of the Central Govt.

The Act empowers the Central Govt to frame rules to carry out the purpose of the Act. The Central Govt had framed the Redressal of Public Grievances Rules, 1998 that provide for the appointment of Insurance Ombudsman to ensure protection of interest of policyholders and also building their confidence in the system. The Ombudsman appointed by the governing body of the Insurance Council\textsuperscript{44} has the power for conciliation and passing an award. Any insured person for conciliation and passing an award. Any insured person who a grievance against an insurer, after making a representation to the insurer about his grievance

\textsuperscript{42} Sections 35, 36, 37 & 37A of the ESI Act.1938
\textsuperscript{43} Section 52A of the ESI Act, 1938.
\textsuperscript{44} Rule 4 (f) of the ‘Redressal of Public Grievances Ruules,1938’ specifies that the insurance council will consist of life Insurance Corporation of India , General insurance corporation of India and its four subsidiaries and other insurance companies which will be permitted to do insurance business in feature.
and if the insurer has reject it or gave an unsatisfactory reply, can make a complaint in writing to the Ombudsman within above jurisdiction the branch or office of the insurer complained against is located.\textsuperscript{45} The complaint can be with regard to any partial or total reputation of claims by an insurer; against any dispute in regard to premium paid or payable in terms of the policy; or on the legal construction of the policies in relation to the claims, or with regard to the delay on settlement of claims and on non-issuance of any documents by the insurers after receipt of premium.\textsuperscript{46}

A complaint can either be settled by the Ombudsman through mediation or is disposed by passing an award. If the complainant is satisfied with the award, a letter of acceptance that the award is full and final settlement of his claim has to be sent to the insurer within one month from the date of receipt of the award and the insurer is under an obligation to comply with the terms of the award within fifteen days of the receipt of the letter of acceptance and also to intimate the Ombudsman about the compliance of the award.\textsuperscript{47} If the policyholder is not satisfied with the award of the Ombudsman, he can either approach the consumer forum or a civil court for redressal of his grievance. The legal heirs of the insured are also eligible to lodge a complaint with the ombudsman. The Rules also empower the Ombudsman to make an ex-gratia payment in favour of the insured.

\textsuperscript{45} Rule 13 of the ‘Redressal of Public Grievances Rules, 1998.’
\textsuperscript{46} Rule 12. of the ‘Redressal of Public Grievances Rules, 1998.’
\textsuperscript{47} Rule 15 & 16.
So far twelve Ombudsmen have been appointed by the governing body of Insurance council allotting them different geographical areas as their areas of jurisdiction. The numbers of complaints lodged with the Ombudsmen were 12116 (together with the pending complaints as on April 1, 2006 and the 10187 complaints received during 2006-07) by the end of March 2007. Of these, 6021 were against life insurers and 6095 were against non-life insurers. The Ombudsmen have disposed of 10169 complaints (5418 against life insurers and 4751 against the non-life insurers) and the complaints that are pending with the ombudsmen for disposal as on April 1, 2007 were 1947 of which 603 were in case of life insurers and 1344 were against non-life insurers.  

b. The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995

The Act while laying down provisions to protect the rights of disabled persons and secure them equal opportunities lays emphasis on education, employment and Social Security of the disabled persons. The Act directs the Governments to provide free education up to 18 years, promote setting up of special schools and to equip the special schools with vacations training facilities and take all necessary initiatives in imparting education to the disabled children and in providing them appropriate orientation. The Act stipulates that the Government should indentify and reserve posts suitable for the persons with

48 Rule 18.
disability, set up special employment exchange and formulate schemes for ensuring employment of persons with disability. The Act directs the Government to provide incentives to employers both in public and private sector to ensure that at least five percent of their workforce is composed of performs with disabilities and mandates the govts and local authorities to reserve at least three percent in all poverty alleviation schemes for the benefit of persons with disabilities.

To secure employment of persons with disabilities in the private sector, the Central Government has approved an incentive scheme under which the employer’s contribution for the Employees’ Provident Fund Scheme and the Employees’ State Insurance Scheme is paid by the Central Government. The incentive scheme is applicable to all the employers who have employed the persons with disabilities on or after 01-04-2008 and the scheme is applicable to the disabled employees whose wage is up to Rs.25,000 per month. In order to implement the incentive scheme, the Central Government has incorporated enabling provisions in the Employees’ Provident Fund Scheme, 1952 by inserting Paragraph 82 vide Ministry of Labour and Employment Notification NO G.S.R 253 (E) Published in the Gazette of India Extraordinary dated 31-3-2008. Similar provision has also been inserted in Paragraphs 4 and 24 of the Employees’ Pension Scheme, 1955 vide Ministry of Labour and Employment Notification NO. G.S.R. 252(E) Dated 31-2-2008. Rules 50 and 54 of employees’ State Insurance Central Rules, 1950 have been amended and Rule 52-A has been inserted to incorporate the provision of incentive vide Notification No. S-
The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act deals with the provisions of social authorities to undertake within their economic capacity and disabilities and provide financial assistance and pay an unemployment allowance to persons with disabilities registered with the special employment exchanges for more than two years and still could not be placed in any gainful employment. The governments are also directed to frame an insurance scheme or a security scheme for the benefits its employees.

The Ministry of Social Justice and Empowerment grants a national scholarship for persons with disabilities providing financial assistance to pursue technical and professional courses if the monthly family income is less than Rs.15,000/- The amt of scholarship varies from Rs. 400/- per month depending upon the course, the beneficiary opted. Further, certain tax exemptions are provided to persons with disabilities and their guardians. In addition to the State and Union territories provisions for unemployment allowances or disabilities pension, the Government of India recently in its interim union budget proposed to launch National Disability Pension Scheme to benefit the disabled persons.
The Employment Exchange (Compulsory Notification of Vacancies) Act, 1959 renders assistance to those seeking employment. It provided for compulsory notification of vacancies and submission of employment returns by employers to the Employment Exchanges. It applies to all establishments in the public sector and the establishment in the private sector employing 25 or more workers. The establishments employing 10 to 24 workers are covered on a voluntary basis. The Act does not apply in relation to vacancies in any employment in agriculture, domestic service, or in any employment which is of less than three months duration period or of unskilled office work. The State and the Union Territories are responsible for enforcement of the Act. The Employment Exchanges set up under the Statute are involved in registration, placement of job seekers, besides providing career counselling and vocational guidance and also collect employment Exchanges in the country which include 947 Employment Exchange in the country which include 82 University Employment Information and Guidance Bureaus, 15 Professional and Executive Employment Exchanges and 43 Special Employment Exchanges for the Physically Handicapped. The number of job-seekers on the live register as on 30-6-2006 is 406.75 lakhs out of which 113.05 lakhs are women. Further, to promote self employment, Self Employment Promotion Cells (SEPCs) have been established in 28 selected Employment Exchanges in the Country.
d. The Public Provident Fund Act, 1968

The Act along with the public Provident Fund Scheme, 1968 farmed by the Central Government under the Act lays down the provisions for the institution of provident fund for the general public with an objective of providing unorganised sector workers who are excluded from participation in mandated provisions with a facility to accumulate savings for old age income security and other contingencies. The organised sector employees can also subscribed to this scheme to augment their retirement savings. The Public Provident Fund (PPF) is an individual account system under which members are allowed to open PPF accounts either with some designated nationalized banks or with post offices. The investments in to the accounts, subject to the minimum and maximum limits prescribed by the Government, accrue interest at the rate notified by the Central Govt in Official Gazette from time. The subscriber to the fund can with draw the total investment along with the interest at the expiry of 15 years and pre-mature withdrawals is allowed from sixth financial year. The subscriber can also avail a loan facility out of the amt standing to his credit after the completion of the third financial year up to fifth financial year to meet the expenses of contingencies. If the Subscriber dies while the account is still in operation, the amount is paid to his nominee or to his legal heirs of non nomination is made. The investments made into Public Provident Fund account qualify for deduction from income under Section 80C of the Income Tax Act and the accumulations and withdrawals are fully tax exempted. These tax benefits are being offered as an incentive to
encourage public to invest in the fund. The Central Government through Ministry of Finance administers the scheme and the annual accretions of the fund are directed to the Public Account of the Government.

e. The Sales Promotions Employees (Conditions of Service) Act, 1976

The Act regulates the conditions of service of sales promotion employees of every establishment engaged in pharmaceutical industry. The Act extends to the whole of India and the Central Government is empowered to apply the provisions of the Act to any other establishment through notification. The sales promotion employee to avail the benefits under the Act must be an employee employed or engaged in a pharmaceutical or a notified industry, for hire or reward to do any work relating to promotion of sales of business, but does not include persons employed or engaged in a supervisory capacity drawing wages more than sixteen hundred rupees per month and those who are employed or engaged in a managerial or administrative capacity. The Act makes certain legislation applicable to the sales promotion employees to enable them to avail benefits under those legislations.

The provisions of the Workmen’s Compensation Act, 1923 and the Industrial Disputes Act, 1947 are made applicable to the sales promotion employees thus making them eligible to obtain compensation in case of disablement, death resulting from an injury by accident during the course of
employment. The provisions of the Minimum Wages Act, 1948 and the Payment of Gratuity Act, 1972 are also made applicable to the sales promotion employees to afford the benefits of minimum wages and the gratuity. The Act besides empowering the State Governments to appoint Inspectors to inspect that the provisions of the Act are complied with, also prescribes punishment to the employer who contravenes provisions of the Act.

f. **The Insurance Regulatory And Development Authority Act, 1999**

The Act provides for the establishment of an Insurance Regulatory and Development Authority it protect the interest of insurance policyholders and regulate, promote and ensure orderly growth of the insurance industry. The Act extends to the whole of India. The Act stipulates the terms and conditions regarding the appointment of the Chairperson and them members of the regulatory Authority and also lays down the duties, powers an functions of the Authority. The Act empowers the Authority with regulation making power. The Act also lays down the provision with regard to the Insurance Regulatory and Development Authority Fund to meet the salaries and other remunerations of the members and other expenses incurred by the regulatory Authority.

In execution of the objectives of the Insurance Act, 1938 and the Insurance Regulatory and Development Authority Act, 1999 and empowered under the
provision of both status.\textsuperscript{50} The Insurance Regulatory and Development Authority since its inception had enacted many Regulation on various issues such as preparation and submission of actuarial reports; registration of Indian Insurance Companies; preparation of financial statements and auditor’s report of insurance companies; licensing of insurance agents; meetings of IRDA; and the Insurance Advisory Committee; licensing, professional requirements and code of conduct of receipt of premiums; licensing of corporate agents; distribution of surplus and regulations with regard to insurance brokers. All these Regulations aim at the orderly growth of insurance business and the protection of the interests of the insurer and the insured.

The Regulations made by the regulatory Authority are more significantly associated with the objective of promoting the interest of the insured by affording them security and also to benefit the needy, vulnerable and economically backward classes as well as the low income groups. The Insurance Regulatory and Development Authority (Insurance Advertisements and Disclosure) Regulations, 2002 stipulates the guidelines with regard to the advertisements and ensure that they do not mislead the policyholders. It directs every insurer to flow recognised standards of professional conduct as prescribed by the Advertisement Standards Council of India and discharge its function in the policyholders. The Regulation also specifies that if an advertisement is not in accordance with the stipulations,

\textsuperscript{50} Section 114A of ‘\textit{the Insurance Act, 1938}’ & Section 26 of the IRDA Act, 1999.
the Authority is empowered to take necessary action against the erring advertiser which includes levy of penalty also.

The Insurance Regulatory and Development Authority (Protection or Policy holders Interest) Regulations, 2002 specify that the prospectus of any insurance protect should clearly state all the terms and conditions of the insurance contract and also clearly specify the benefits available under it; the premium payable; periodicity of payment; grace period allowed; and about the implication of discontinuing the payment of premium etc so that the policyholder is aware of all the terms and conditions before entering into the contract.\footnote{Regulation 3, 6 & 7 of IRDA (‘Protection of Policy Holders’ Interest) Regulations 2002.} Further it is also directed that the claim under a life policy shall be paid within 30 days from the date of receipt of all relevant papers and the insurer should respond within 10 days of the receipt of any communication from the policyholders regarding any information required by the policyholder and render him necessary guidance in all matters regarding the policy and provide him prompt service.\footnote{Regulation 8, 9 and 10 of the IRDA. (Protection of Policyholders’ Interests) Regulation, 2002.} It is further regulated that every insurer shall have proper and effective mechanism to address complaints and grievances of policyholders efficiently and without delay and the policyholder should be informed about the existing mechanism in the insurance company and also inform him about the details of Insurance Ombudsman under whose jurisdiction the insurer comes through the policy document.\footnote{Regulation 5 of the IRDA. (Protection of Policyholders’ Interests) Regulation, 2002.}
The Insurance Regulatory and Development Authority (Obligation of Insurers to Rural of Social Sectors) Regulations, 2002 in furtherance of the provisions of the Insurance Act, 1938 directs the insurers to cover with the life insurance or general insurance policies, the persons residing in the rural sector; workers in the unorganised sector or informal sector; economically vulnerable or backward classes of the society and persons with disabilities who may not be gainfully employed and their guardians who need insurance to protect persons with disability.  

The Regulation imposes obligation on life insurers who begin to carry on insurance business to, in the first five financial years, underwrite seven, nine, twelve, fourteen and sixteen percent of total policies in that year respectively in relation to the rural sector and in relation to the social sector five, seven, ten, fifteen and twenty thousand lives during the first five years. The obligations aim to ensure that the insurance sector serves for the betterment of the backward and vulnerable sections of the community. The Regulations also direct the Life Insurance Corporation of India and public sector general insurance companies to ensure that the quantum of insurance business on the rural and social sector underwritten by them shall not be less than what has been recorded in 2001-02, i.e., before the issue of regulations.

---

54 Section 32B & 32C of the Insurance Act, 1938 and Regulation 2 of the IRDA. (Obligations of insurers to rural and Social Sectors) Regulation, 2002.

55 Regulation 2(C) of the IRDA. Regulation defines rural Sector to be a place with a population of five thousand and where more than twenty-five percent of the male working population is engaged in agricultural pursuits and Regulation 2 (d) defines social sector as that which includes unorganized sector, informal sector, economically vulnerable or backward classes and persons with disabilities.

56 Regulation 3 of the IRDA. (Obligations of insurers to rural and Social Sectors) Regulations, 2002.
The Annual Report of Insurance Regulatory and Development Authority for the year 2006-07 states that all the sixteen life insurers including the public sector insurer Life Insurance Corporation have fulfilled their obligation towards the rural sector in the year 2006-07. The number of polices underwritten by them in the rural sector was as per the obligations applicable to them and in the social sector, of the sixteen life insurance fourteen have fulfilled their social sector obligations during the 2006-07. The number of lives covered by them was above the stipulated obligations. Two pvt sector companies which commenced their operations in 2006 could not fulfil their obligations and a penalty of five lakhs has been imposed on one and the in other case it has been waived as the shortfall is negligible. Life Insurance Corporation in compliance with its obligations underwrote a higher percent of polices in both sector than were underwritten in the year 2001-02. As far as the non-life insurance companies are concerned eight private sector companies met their rural as well as social sector obligation only three of them with the exception of the New India Assurance Co. Ltd could meet the social sector obligations.57

The Insurance Regulatory Authority (micro-insurance) Regulations 2005 promote the micro-insurance products with an objective to make them more affordable for benefit of rural and urban low-income groups. Micro-insurance refers to the financial arrangement to protect low-income people against specific perils in exchange for regular premium payments proportionate to the likelihood

---

and cost of the risk involved. The micro-insurance products are specifically designed to provide insurance covering their dwellings, livestock, tools or instruments or any personal accident contract, either on individual or group basis and life insurance products. The Regulations issued by the Authority provided frame work for insurers to design suitable micro-insurance products; specify the manner of promotion of the products through the micro-finance institutions, self-help groups and non-governmental organisations as well as distribution of the products. While six life insurers have launched twelve micro-insurance products, four non-life insurers have introduced eight micro-insurance products so far.\textsuperscript{58}

g. \textbf{The Advocates Welfare Fund Act, 2001}

The Act provides for the constitution of welfare fund for the benefit of practicing advocates. The Act extends to the whole of India expect in those states which already have a State Welfare Fund Act functioning. The Act provides for the establishment of an Advocates Welfare Fund Trustee Committee which shall be a body corporate to operate the fund for the benefit of its members. The Act stipulates that an amount equal to twenty percent of the enrolment fee received by the State Bar Council is annually paid to the welfare fund. In addition, all sums collected by way of sale of Advocates Welfare Fund Stamps to be affixed on Vakalatnama filed before the court shall be deposited into the fund. An advocate can apply to the trustee committee for admission as a member of the fund as per

the prescribed procedure and eligible and on being admitted is required to pay certain annual subscription. A member who fails to pay the annual subscription amt is liable to the removed from the membership. The member of the fund receives an ex-gratia amt in case of hospitalisation or involving major surgical operation or in case he is suffering from serious diseases or disability. The member is also entitled for the benefits of a group life insurance and also receives assistance for medical and educational facilities of his dependents fixed by the Committee.

h. The Maintenance and Welfare of Parents and Senior Citizens Act, 2007

Section 125 of the Criminal Procedure Code, 1973 and the Hindu Adoptions and Maintenance Act, 1956 provide for the maintenance of parents without any means by their children. But as the procedure to obtain relief under both statutes is both time consuming and expensive and the need to have simple, inexpensive and speedy provision for care of parents is felt, parliament enacted the ‘Maintenance and Welfare of Parent and Senior Citizens Act’ in 2007. The Act places an obligation to provide for the property of the senior citizen or is likely to inherit the property, if the senior citizen is unable to maintain him or herself. The Act defines the Senior citizen to be a person who attained 60 years of age. The Act enables the senior citizen to make an application against the children or the relative who fails to provided maintenance, to the maintenance tribunal constituted for the purpose. The tribunal is empowered to make an order for
purpose. The tribunal is empowered to make an order for monthly allowance subject to a maximum of Rs 10000 per month on being satisfied that the children or the relative, against whom the complaint is made, is neglecting and refusing to maintain the senior citizen. The Act also provides for interim maintenance during the pendency of the proceedings. The Act prescribes imprisonment on the breach of the order. The Act further protects the interest of the senior citizen in the property by inserting a provision that if the property of a senior citizen is transferred, it shall be with a condition that the transferee shall provide for the basic needs of the senior citizen. The Act also lays down provisions with regard to the welfare measures that are to be undertaken for the well-being of the senior citizen such as facilities to the senior citizens etc. and directs the State Governments to take measures for the protection of life and property of senior citizens.

i. The Unorganised Workers ‘Social Security’ Act, 2008

The Act which is passed recently by the Parliament aims to benefit the unorganised workers who are till now benefited on by through the minimum wages with statutory Social Security benefits also. The Act defines the ‘unorganised sector’ as an enterprise owned by individuals or self-employed workers and engaged in the production or sale of goods or providing service of any kind whatsoever, and where the enterprise employees less than ten workers. The Act defines the ‘unorganised sector worker’ as a home based worker, self-employed worker or a wage worker in the unorganised sector. The ‘home-based
worker is defined as a person engaged in the production of goods or services for an employer, for remuneration in a place other than the workplace of the employer. The Act defines the Self-employed workers’ as any person who is not employed by an employer, but engaged himself or herself in any occupation in the unorganised sector. The ‘Wages workers’ is defined by the Act as a person employed for remuneration in the unorganised sector directly by an employer for remuneration in the unorganised sector directly by an employer or through any contractor. The Home-based workers, temporary or casual workers, migrant workers and workers and workers employed by household including domestic workers are brought under the category of wage workers by the Act. The Act envisages the formulation of welfare scheme for different section of unorganised sector with regard to life and disability covers, health and maternity benefits, old age protection by the Central Govt and the Scheme relating to provident fund employment injury benefits, housing, educational scheme for children of the workers, up-gradation of skill of workers and funeral assistance shall be framed by the state governments. The schemes framed by the Central Government may be wholly funded by the Central Government or funded by both central and State Governments or funded by the Government, beneficiaries and the employer. On similar lines, the schemes framed by the State Government shall be fully funded by the Government or funded by the state, employer and the beneficiaries and the Central Government may also provide financial assistance to the schemes. The Act also proposes to constitute the National Social Security Advisory Board and
the State Security Advisory Board to monitor the welfare schemes and recommend suitable schemes for different sections of unorganised sector workers and also review the execution of the schemes.

The Act empowers the Central Government to bring the Act into force by issuing a notification in the Official Gazette. The Central Government is yet to issue a notification and when the Act is brought into force the existing insurance scheme that provide life insurance, disability and health cover for the unorganised sector workers that are framed by the Central Government gets statutory backing and the State Governments are needed to frame schemes that provide for Social Security benefits as stipulated under the Act.

5.11 Conclusion

Provisions of Social Security to unorganised workers are currently receiving urgent attention of the Central and some of the State governments. There is a considerable heterogeneity across and within the sectors of unorganised workers. The BPL norm is inadequate in providing Social Security benefits to unorganised workers. The unorganised workers tend to be localised in the sense that improvements in their conditions relating to rural and urban localities in which they live.

After the exit of the Second National Labour Commission, no one expected that the government would give up on its plans to water down the existing labour laws. At the 39th Session of the Indian Labour Conference, held in New Delhi on
16-18 October 2003, the government mooted the proposed bill on unorganized sector workers. The labour representatives suggested that there could be a cess of one percent of the turnover on industries having a turnover of over Rs.100 crore to bear the cost of the welfare scheme. The employer’s representatives, who otherwise take up the issue of lack of welfare measures for the unorganized, opposed this suggestion in toto.

It is amply clear that the intention of the Central Government is to go ahead with changes in labour laws mostly along the lines of the Second Labour Commission’s recommendations. Such an attempt on the part of the Government would affect the interest of the workers. Hence, before taking any measures for liberalisation of labour legislations, the Government shall think twice.