

A Dysfunctional Social Security Law for Unorganised Workers

By Kathyayini Chamaraj

Executive Trustee, CIVIC Bangalore



CIVIC BANGALORE

No. 6, Kasthuri Apartment, 35/23, Langford Road Cross,
Shanthinagar, Bangalore – 560 025

Ph. : 080 – 41144126

E –mail: info@civicspace.in web: www.civicspace.in

FOREWORD

According to a Survey conducted by the National Sample Survey of India in 2009-10, the total employment in the country was 46.5 crore, comprising around 2.8 crore in the organised and the remaining 43.7 crore workers in the unorganised sector. There are 24.6 crore workers employed in the agriculture sector, about 4.4 crore in construction work and the remaining in manufacture and service. These unorganised workers contribute 50% to our gross domestic product (GDP).

Most of these workers are migrants, illiterate and unorganised. Due to lack of skill and inexperience, these workers face a number of problems. It is in these compelling conditions that these workers become easy victims of exploitation, suffering and inhuman treatment. A study indicates that these workers are not paid minimum wages; even agreed wages are not paid in time. Their working hours are not well regulated. They do not always get overtime wages for excess work. They work under hazardous conditions where safety measures are hardly met. In case of accident, there is no provision for financial and medical aid. In cases like death, no body owns responsibility.

There are no recreational facilities and drinking water, canteen, toilets, etc are not easily available. If the workers are female, their problems are much graver. These workers and their children have no social security benefits like pension, insurance schemes, maternity leave, accident and death claims, etc.

After 60 years of independence the central government enacted a law called 'The Unorganised Workers' Social Security Act, 2008' providing for the social security and welfare of unorganised workers. It is our experience that many laws are not implemented or half-heartedly implemented or violated. This is the reason a majority of people are not able to reap the fruits of laws enacted. Therefore the real test of law is its implementation.

The CIVIC and its executive trustee, Kathyayini Chamaraj, have done a commendable job in bringing out this small, beautiful and valuable book to create awareness among the unorganised workers. In this way they are assisting the unorganised workers in securing the benefits provided under the law. At the same time they are exposing the shortcomings in the existing law. I appreciate this socio-legal audit of the implementation of schemes and welfare legislation by CIVIC. I congratulate Kathyayini Chamaraj for this noble work. I wish her good success in her mission for the welfare of the downtrodden.

H N Nagamohan Das
Former Judge, High Court of Karnataka
Senior Advocate, Supreme Court of India

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Right of workers to social security has been recognised as an inalienable right and, therefore, must accrue to every worker. Provision of social security is mandated in our Constitution under Articles 38 (securing a social order for the promotion of welfare of the people), 39 (certain principles of policy), 41 (right to work, education and public assistance in certain cases), 42 (just and human conditions of work and maternity relief) and 43 (living wage etc.) of the Constitution of India as a part of the Directive Principles of State Policy.

The issue of providing social security to the unorganised sector workers has been vexing workers and civil society since long. The response of the government has been at best welfare and not rights-oriented, tokenistic and splintered. An Unorganised Workers' Social Security Act was passed in 2008 to provide social security to all the unorganised sector workers, which instead of integrating and rationalising all splintered Acts and schemes and making one comprehensive general law, has merely become one more such Act.

First of all, it confers no rights and is only an enabling law. It merely says that States may devise schemes for providing social security to unorganised workers. It does not cover all workers or make their registration compulsory as in other countries. Even for those covered, their inclusion at least in a 'minimum social floor' of benefits, if not all benefits, is also not mandatory. It does not ensure a mechanism by which workers can be incrementally covered and fixes no time-frame within which all workers will be covered. It has prescribed no means of creating a fund from which benefits can be drawn. The Karnataka Rules continue to prescribe incremental coverage of workers sector by sector which approach has been shown to fail in enhancing coverage in the other such sector-based schemes and is actually not required under the Act.

Limited coverage of workers: Workers already covered under the six schemes listed under Schedule II of the Act in the organised sector are ineligible for coverage under the USWSSA. These schemes are the ESIC Act, EPFO Act, the Maternity Benefit Act, the Workmen's Compensation Act, the Industrial Disputes Act and the Payment of Gratuity Act. However, the Act makes workers in the organised sector who are not covered by any of the Acts mentioned in Schedule 2 eligible under the USWSS Act. But the USWSS Act sets further conditions by saying that only those, either home-based workers, self-employed workers or wage workers, working in establishments

that have less than 10 workers are covered under the Act. Among those again, those earning more than an amount of monthly income fixed by the State governments are ineligible to come under the Act. Moreover, a list of 43 sectors has been identified by the State Board as coming under the unorganised sector in addition to those covered by the definition of the unorganised sector in the Act.

The Act requires States to fix an income limit to determine eligibility. Karnataka has ruled that only those workers with BPL cards from the Food & Civil Supplies Department are eligible under the Act. It is to be noted that the current BPL criteria in Karnataka do not include an income limit for being considered BPL at all and have several ambiguous 'exclusion criteria' only. Also, it is well known that several ineligible persons have BPL cards while several genuinely poor do not have them.

Also, several workers who are currently APL, may fall below the poverty line suddenly due to health-related or other calamities. Thus restricting coverage to those with BPL cards leaves many vulnerable families without coverage.

Mr. R.K.A. Subrahmanya, a former Union Labour Secretary and expert on social security, points out that "a review of current labour laws indicates that "in providing protection to particular classes of workers, the generality of the workers is left without any protection thus creating pockets of privilege among the working classes." He laments that there is a "situation of great diversity without a unity of purpose".

Self-affidavit not being considered for registration of workers: The only three conditions placed by the Act as eligibility for registration of an unorganised worker are that: (1) he or she should be working in an establishment that has less than 10 workers; (2) he or she should have completed 14 years of age [under Section 10 (1) (a)]; and (2) that he should file a self-affidavit that he is an unorganised worker [under Section 10(1)(b)] .

But currently, the State Board is insisting that NGOs, trade unions, etc., should certify that the worker is working in a specific sector, which is not at all required under the Act. Moreover, unions of domestic workers relate that despite lists of names of thousands of domestic workers being sent to the Board, it does not result in the workers being registered.

No unified scheme or comprehensive benefits: Instead of listing all nine benefits considered as social security benefits by the ILO as the contingencies for which the Central Government may formulate and notify welfare schemes for unorganised workers, the USWSS Act lists only life and disability cover, health and maternity

benefits, and old age protection as the contingencies, with the proviso that any other benefit determined by the Central government may also be given. This leaves out unemployment benefit and family benefit.

The USWSS Act also says that the 10 Schemes included in Schedule 1 of the Act shall be deemed to be the welfare schemes formulated by the Central Government. There are several problems with such a formulation. The ten schemes listed in Schedule 1 of the Act are the following: The Aam Aadmi Bima Yojana (AABY), the Rashtriya Swasthya Bima Yojana (RSBY), the National Family Benefit Scheme, the Indira Gandhi National Social Assistance Programme which provides pensions to the elderly, widows and the disabled, the Janani Suraksha Yojana (JSY), the Janashree Bima Yojana, the Handloom Weavers' Comprehensive Welfare Scheme, the Handicraft Artisans' Comprehensive Welfare Scheme, the Master Craftsman Pension Scheme, and the National Fishermen's Welfare Scheme.

Very little thought seems to have gone into the design of the USWSS Act while formulating it in this manner. It does not provide a unified comprehensive scheme that covers all unorganised workers. It also does not provide a road-map for gradually working towards a simplification and rationalisation of all existing Acts and schemes, such as those for beedi workers, mine workers, construction workers, etc., with their separate administrative machineries, and bringing all under a single authority and administrative mechanism over time.

It does not provide at least a 'minimum social floor' as a right, if not all the nine social security benefits. It has merely put together ten existing schemes each of which have different eligibility criteria for covering workers, have piecemeal and varying benefits and are administered by different departments.

Some of them are restricted to BPL families while others prescribe no income limits. Some of them are contributory, while others are not. Some are sector-based while some others are not. How will these criteria for individual schemes be reconciled with the criteria fixed for registration with the USWSS Board? While there is cause for confusion within these listed ten schemes, the confusion gets compounded when the plethora of other overlapping schemes that are not listed under this Act, some of which are run by the Centre and some by the States are also taken into account!

Varied eligibility criteria for schemes		
Sl. No.	Scheme	Eligibility
1.	Indira Gandhi National Social Assistance Scheme	Old-age and widow pension - BPL card or annual household income less than Rs. 17000 Disability pension – Rs. 24,000 annual household income
2.	National Family Benefit Scheme	BPL card
3.	Janani Suraksha Yojana (JSY)	BPL card or annual household income less than Rs. 17000
4.	Janashree Bima Yojana	18 to 60 years ; only for anganvadi teacher and anganvadi helper; no income limit
5.	Aam Aadmi Bima Yojana (AABY) (72 sectors)	18 to 59 years age, 72 sectors listed, scheme is in the name of the family head; no income limit
6.	Rashtriya Swasthya Bima Yojana (RSBY)	BPL card
7.	Unorganised Workers' Social Security Board - Karnataka State Private Commercial Vehicle Drivers' Accident Benefit Scheme	Private commercial vehicle and heavy vehicle use licence ; 20 to 70 years; no income limit
8.	NPS Scheme – Swavalamban	No income limit

Multiple window architecture: Registering with the USWSS Board does not make the unorganised worker automatically eligible to access benefits from these 10 schemes. But the worker will have to register with each of these schemes again as the administrative machinery is different for each of them. He has to possibly also pay the registration fees for each scheme afresh. A study by the Institute for Financial Management and Research (IFMR) notes that “currently, an unorganised sector worker who is eligible under all the three schemes [(i) *Rashtriya Swasthya Bima Yojana (RSBY)*, a national health insurance scheme, and (ii) the *Aam Aadmi Bima Yojana (AABY)*, a life insurance scheme (both largely for the below poverty line population), and (iii) the *National Pension Scheme-Swavalamban (NPS-S)*, a pension scheme specifically for the unorganised sector workforce] has to enrol at three separate windows in order to be completely covered under the scheme – s/he has to enrol for health insurance at an RSBY enrolment station, buy a pension through an aggregator such as a bank or MFI, and enrol for life insurance through one of LIC’s nodal agencies.

Multiple Window Architecture

Sl. No.	Scheme	Administering department
9.	Indira Gandhi National Social Assistance Scheme	DSSP (Directorate of Pensions and Social Security) -Revenue Department & DWDCS Departments
10.	National Family Benefit Scheme	DSSP (Directorate of Pensions and Social Security) - Revenue department
11.	Janani Suraksha Yojana (JSY)	Dept. of Health & Family Welfare
12.	Janashree Bima Yojana	Department of Women and Child Development (DWCD)
13.	Aam Aadmi Bima Yojana (AABY) (72 sectors)	DSSP (Directorate of Pensions and Social Security -Revenue Department)- LIC
14.	Rashtriya Swasthya Bima Yojana (RSBY)	Central Govt. State Nodal Agencies (SNAs), hospitals, and insurance companies.
15.	Unorganised Workers' Social Security Board - Karnataka State Private Commercial Vehicle Drivers' Accident Benefit Scheme	USWSS Board
16.	NPS Scheme - Swavalamban	(PFRDA) Pension Fund Regulatory and Development Authority
17.	Handloom Weavers' Scheme	Handloom Weavers' Corporation

Moreover, eligibility for registration under the RSBY is that the worker should possess a BPL card. For registration under RSBY, the lists of persons possessing BPL cards is sent to the Centre for approval. Currently, it is taking almost two years for the Centre to approve these lists in Karnataka. Also caps have been fixed for the amounts that may be charged for medical procedures which denies the registered members the benefits if the empanelled private hospitals charge more than the cap fixed for those procedures.

Also, “the fragmented ownership structure and the lack of coordination among the different Ministries running the schemes have led to an equally fragmented delivery of schemes”, notes the IFMR study. It also points out that most social security schemes including the AABY and RSBY rely on state-level nodal agencies for the distribution of the scheme, usually a state government department. For example, in 44% of RSBY implementing states, the nodal agency is the Department of Labour.

The National Rural Health Mission and Department of Health and Family Welfare constitute another 24% of nodal agencies. “Nodal agencies like state government departments often suffer from weak institutional and staff capacity which hinders the implementation of programs,” says the study. Without specific incentives to implement the schemes, the implementation of the scheme becomes just another function for the government department to perform among many administrative duties.

Piecemeal and Varied Benefits: Each of the ten Central schemes that constitute the welfare schemes under Schedule 1 of the Act, offer one or a few benefits only and have varying amounts as benefits often for the same contingencies. Many of the amounts, especially pensions are tokenistic and so low that they will not enable the pensioner to maintain a decent standard of living, as required by the ILO.

Piecemeal & Varied Benefits		
Sl. No.	Scheme	
1.	Indira Gandhi National Social Assistance Scheme	Old-age pension – Rs. 200 / month (60 to 64 years) Old-age pension –Rs. 500 /month (65 years to 79 years) Old-age pension- Rs. 750 /month (above 80 years) Widow pension – Rs. 500 / month Disability pension - Rs. 500 to 1200 /month
2.	National Family Benefit Scheme	Survivors’ benefit on death of family breadwinner – Rs. 20,000
3.	Janani Suraksha Yojana	Maternity benefit - Rs. 500 to 1500 rupees depending on whether delivery took place at home, hospital, urban or rural area or whether it was a cesaerean operation
4.	Janashree Bima Yojana (to Anganwadi Workers and Helpers only)	Full disability - Rs. 50000 to beneficiary Partial disability – Rs. 25000 to beneficiary Accidental death – Rs. 50000 to nominee Natural death - Rs. 20000 to nominee Scholarship to 9th Std to 12th Std children - for 3 months Rs. 300
5.	Aam aadmi Bima Yojana	Full disability - Rs. 75000 to beneficiary Half disability - Rs. 37500 to beneficiary Accidental death – Rs. 75000 to nominee, Natural death – Rs. 30000 to nominee Scholarship to 9th Std to 12th Std children – Rs. 1200/year

6.	Rashtriya Swasthya Bima Yojana	Health care - RSBY offers inpatient care, restricted by package limits (700 procedures, 5 days' post-hospitalisation drugs, and transportation costs of Rs.100) and subject to an annual ceiling of Rs.30,000 per family, covered on a cash-less basis (IFMR study)
7.	Unorganised Workers' Social Security Board - Karnataka state private commercial vehicle drivers accident benefit scheme	Accidental death –Rs. 2 lakh Full disability – Rs. 2 lakh Temporary disability (In-patient care) – Rs. 1 lakh
8.	National Pension Scheme - Swavalamban	Govt contributes Rs.1000 a year as co-contribution if Rs.1000 has been saved by the beneficiary. At the retirement age of 60 years, if the beneficiary has saved the minimum amount, he should have accumulated enough pension wealth to benefit from a minimum amount of Rs.1000/month.(IFMR study)
9.	Handloom Weavers' Scheme	Health care benefit up to Rs.15,000 Natural death Rs. 60,000/- Accidental death – Rs. 1,50,000/- Full disability – 1,50,000/- Partial disability – 75,000/- Scholarship for children in 9 th to 12 th Std. - Rs.300/year
10.	Handicrafts Artisans' Scheme	Health care (in-patient) – Rs. 30,000 Out-patient care – Rs. 7,500 Natural death –Rs. 30,000 Accidental death – Rs. 75,000 Full disability – Rs. 75,000 Partial disability – Rs. 37,500 Scholarship to children in 9 th to 12 th Std, Rs. 1,200/year
11.	Pension to Master Crafts-Persons	Rs. 2,000 /month
12.	Fishermen's Welfare Scheme	Group insurance – Accidental death – Rs.2 lakh Full disability – Rs. 2 lakh Partial disability – Rs. 1 lakh

Monitoring of Central & State welfare schemes by the State Board: The State USWSS Board is supposed to monitor the administration of the above ten Central welfare schemes and also other schemes of the State Government that are run by the respective departments or nodal agencies. The USWSS Board itself has no role in the implementation of these schemes. An RTI application filed with the Board requesting information on the monitoring undertaken by the Board of the implementation of the above schemes elicited the response that none of the

schemes is being monitored by the Board. This indicates an abdication of the monitoring role of the above schemes assigned to the Board.

Schemes to be formulated by the Board: Under Section 6(8) of the USWSS Act, the State Board has the liberty to formulate any suitable scheme it deems fit for unorganised workers, including but not restricted to the following contingencies faced by unorganised workers: (a) provident fund, (b) employment injury benefit, (c) housing, (d) educational schemes for children, (e) skill upgradation of workers, (f) funeral assistance and (g) old-age homes. However, it needs to be noted that there is no binding on the Board or requirement to formulate schemes for specific sectors of employment only of unorganised workers. **Hence it has to be assumed that what is envisaged is common schemes for all unorganised workers.**

Instead of formulating schemes which apply to all unorganised workers as defined under the Act, which would rapidly increase the number of those benefiting from the schemes, the Board has taken the stand that it will formulate only sector-specific schemes. Thus since its constitution in 2009-10, the State Board has devised only one scheme, namely, the Karnataka State Private Commercial Vehicle Drivers' Accident Benefit Scheme. But the Scheme does not cover all the nine social security benefits or even a 'minimum social floor' of benefits for them but only a single accident benefit. The Board was also implementing the NPS-lite scheme under which 50,654 cards were distributed.

Non-registration of workers as per the Act: The Board is not registering any worker from even the 43 sectors it has listed, allegedly because no scheme has been formulated for those sectors. Though domestic workers have been clamouring for being registered under the Board, their applications are not being considered. This is a gross violation of the Act as it is supposed to register any unorganised worker who applies, as per the definition in the Act.

Private commercial vehicle drivers constitute a minuscule number out of the millions of unorganised workers in the State and out of these drivers also, only about 1.94 lakh of them have been registered by the Board and Smart Cards issued to them as per recent data. **If the Board covers this meagre number of workers in a period of eight years and is going to provide one benefit only at a time to them, how many years will it take the Board to cover all unorganised workers who number millions in the State and how long will it take before all nine benefits are provided to them?** And why this harping on sector-specific schemes when the self-affidavit for registration does not have any requirement for specifying the sector of work?

Poor accessibility: In the absence of Workers' Facilitation Centres in the necessary numbers at close proximity to workers, workers will have to trudge to the labour department for registration, etc. The accessibility of the labour department and boards to the beneficiaries is also limited as they have their offices in state, district or taluk headquarters and often have no mechanisms at grassroots-level for the registration of workers, collection or disbursement of funds, grievance redressal or service delivery.

Approval of schemes is by the State Government: Section 8(a) of the Act, says that the Board can "recommend the State Government (*sic*) in the formulation of suitable schemes for different sections of unorganised workers". This appears to mean that the Board has no autonomy to devise and approve its own schemes (as is done by the Building & Other Construction Workers' Welfare Board, for example) but has to get every scheme devised by it approved by the State Government which defeats the purpose of setting up an exclusive Board. Whether the Scheme gets any funding at all is again determined as per the whims of the State government.

Funding of schemes: Section 7 of the Act permits any scheme notified by the State Government to be funded wholly by the State Government, or to be partly funded through grants by the State Government and through contributions from the beneficiaries of the scheme or the employers, as may be prescribed in the scheme by the government. However, no mechanism for raising funds from employers has been devised by the Board leaving the Board with no funds of its own to fund its schemes, as is done by the B&OCWW Board. Thus it is wholly dependent on the State government for approving and funding its schemes, again making it a body with no autonomy, negating its independent existence.

But that it has failed to even recommend to the State Government a mechanism for raising funds from employers, beneficiaries and the government indicates inaction by the Board to make its own existence and functioning effective and sustainable. Nor does the State government seem to have sought financial assistance from the Central Government for any scheme for ensuring the social security of unorganised workers under this Act.

Record keeping by the District Administration: Section 8 of the Act requires the District Administration to perform the record keeping functions, i.e., maintaining the lists and records of registered workers with the Board, etc. But the Act also allows the State Government to direct the urban and rural local bodies, the Zilla Panchayat and the municipalities, to perform this role, which would be the more feasible and

logical mechanism as these bodies are closest to the workers. But the State Government has not directed the local bodies to do so.

Workers' Facilitation Centres: Section 9 of the Act allows the State Government to set up "as many Workers' Facilitation Centres as may be found necessary" to aid in the dissemination of information about the schemes for social security of unorganised workers, facilitate the filing, processing and forwarding of applications for registration of workers, assist unorganised workers to obtain registration from the District Administration and facilitate the enrolment of the registered unorganised workers in social security schemes. However, a metropolitan city like Bangalore with a population of almost one crore persons has merely two Workers' Facilitation Centres run by NGOs.

There were many more WFCs when a German development organisation (GTZ) had collaborated with the State Government to set them up, but these were closed and not continued by the State Government once the agreement period with the German organisation came to an end. This shows the utter lack of commitment on the part of the State Government to facilitate the registration of unorganised workers and help them access social security benefits.

Also, nowhere does the Act say that WFCs should be run only by non-governmental organisations. The State Government itself is mandated under the Act to set up as many WFCs as are necessary. Since there is no mention that the WFCs should be run either on sector-specific basis or that it should register unorganised workers on the basis of the sector in which they are employed, it seems clear **that the Act envisaged the coverage of unorganised workers on an area-based or geographical basis and not on a sector-specific basis, which is what is being attempted by the State Board currently.**

It is unfortunate that while the Act says that record-keeping can be delegated to the local bodies, it does not unambiguously state that the WFCs too should be run by the local bodies themselves, which would have ensured the natural linkage between registration and record-keeping. It is a vagueness that seems deliberate to avoid responsibility for registering workers.

A framework for universal social security for unorganised workers

ILO Requirements: The ILO foresees universal coverage of workers for social security and an immediate provision of a minimum social floor of a few key benefits

before the extension of all nine social security benefits listed in the ILO Convention No. 102 on Social Security (details as per table below).

Nine Social Security benefits as per ILO Convention 102

1. Medical care

Provides for preventive care, general practitioner care, including home visits, specialist care, essential pharmaceutical supplies as prescribed, prenatal, confinement and postnatal care by medical practitioners or qualified midwives, and hospitalization where necessary.

2. Sickness benefit

Periodical payments, corresponding to at least 45% of the reference wage.

3. Unemployment benefit

Periodical payments, corresponding to at least 45% of the reference wage.

4. Old-age benefit

Periodical payments, corresponding to at least 40% of the reference wage. The rates of relevant benefits must be revised following substantial changes in the general level of earnings and /or the cost of living.

5. Employment injury benefit

Medical care, periodical payments corresponding to at least 50% of the reference wage in cases of incapacity for work or invalidity. Benefits for widow and dependent children in case of death of breadwinner with periodical payments corresponding to at least 40% of the reference wage. Possibility of converting periodical payments into lump sums under certain conditions. Except in the case of incapacity for work, obligation to revise the rates of periodical payments following substantial changes in the cost of living.

6. Family benefit

Provides either periodical payments or the provision of food, clothing, housing, holidays or domestic help, or a combination of these, including child care benefit.

7. Maternity benefit

Medical care including at least prenatal, confinement and postnatal care either by medical practitioners or by qualified midwives and hospitalization where necessary; periodical payments, corresponding to at least 45% of the reference wage.

8. Invalidity benefit

Periodical payments, corresponding to at least 40% of the reference wage; the rates of relevant benefits must be revised following substantial changes in the general level of earnings and/or in the cost of living.

9. Survivors' benefit

Periodical payments, corresponding to at least 40% of the reference wage; the rates of relevant benefits must be revised following substantial changes in the general level of earnings and/or in the cost of living.

Minimum benefits to be provided : The ‘social protection floor’ advocated by the ILO [ILO, 2008c, section I A(ii)] as an immediate measure comprises a minimum package of benefits to be ensured:

- universal access to essential health services;
- income (or subsistence) security for all children through child benefits;
- income support combined with employment guarantees for those who cannot earn sufficient income for any reason;
- income security through basic tax-financed pensions for the old, the disabled and those who have lost the main breadwinner in a family.

It is disheartening that even this minimum social floor is not being currently provided by the USWSS Act and its schemes.

Universal coverage: In order to ensure that every unorganised worker is covered, the National Advisory Council, in its recommendations regarding the UWSS Act, had recommended that the definition of an unorganised worker could be: “All unorganised workers, including those who go in and out of the formal and informal sectors of the economy (like contract labourers); excluded from the purview of the Act should be two categories of workers:

(i) workers in the formal sector who are already covered by the existing PF and ESIC schemes; and (ii) self-employed workers and others who pay income tax and are relatively better-off, such as doctors and lawyers”.

Limiting eligibility to certain classes of establishments with a certain number of workers, or certain sectors of employment, etc. and fixing wage ceilings or BPL cards for eligibility, as is currently extant in the UWSS Act and the Karnataka Board, it is likely that because of these further conditions and limitations several workers will fall between the two stools and not be covered by either the Acts for the formal sector or under the USWSS Act. This goes against the principle of treating social security as a human right of every individual.

Unique features of the unorganised sector: The unorganised sector has several features which make it difficult for the institutions and mechanisms foreseen for the organised sector, such as ESIC and EPFO, to be extended automatically to serve the particular needs of the unorganised. Whatever mechanism is devised will have to

suit the basic features of unorganised work characterised by lack of a clear employer-employee relationship, short-term employment with various employers, and shifting nature of workplace and worker.

Sector-specific provisions unsuitable: For an unorganised sector worker who is an agricultural worker during one season and a plantation worker, construction worker, quarry worker or brick-layer during other seasons, sector-specificity hardly makes sense. The cost and confusion of having myriads of sector-specific schemes for the unorganised is unthinkable. Will the worker have to register himself anew with a different sector-specific scheme, each time he shifts his occupation from one sector to another? How many ID cards and records of work and contribution will he have to maintain? And how many points of delivery will he have to visit for claiming the various and varied benefits offered by the multiple schemes?

Need to de-link from sector-specificity: A sector-based approach is relevant only for the regulation of working conditions in a sector and unnecessary for the provision of social security. Once the provision of social security is de-linked from sector-specificity, it becomes possible to think in terms of an area-based approach, covering all workers living in that area, for the provision of social security.

Self-affidavit to determine eligibility: Requirement to get their eligibility as unorganised workers certified by trade unions or NGOs is a violation of the Act and an unnecessary hurdle being placed in the path of the unorganised worker in registering himself. Workers should be registered on the basis of a self-affidavit as stated in the Act and certification by trade unions and NGOs should be dispensed with.

Area-based implementation through local bodies: It needs to be recognised, that the local bodies are ideally situated to perform the functions of registration and record-keeping as they are the only administrative organs of the state that reach right down to the lowest level, which workers in every nook and corner of the country can access easily, without having to spend out-of-pocket to even visit these offices.

A redeeming feature of ILO's social floor concept, especially in the Indian context, is that it calls for the integration and rationalisation of schemes and their delivery at grassroots level in a decentralised manner through local bodies.

The study by IFMR also recommends the following: "In order to enable ease of access for the beneficiary, there is an urgent need to create a single-window

architecture offering all products in order to eliminate the inefficiencies associated with multiple purchase points and to enable ease of access for the beneficiary. Further, there is a need to simplify the process of accessing benefits by providing the beneficiary with a unified authentication process that can be used across all social security schemes”.

Minimum social security benefits: The magnitude of the minimum compulsory contribution in a ‘defined contribution mode’ could be fixed initially for social security benefits that are imperative and constitute a ‘minimum social floor’, namely, healthcare and sickness benefit, child care, life insurance and disability cover and old age benefit; maternity benefit, could be provided compulsorily to all women workers or the wives of registered workers. The remaining benefit for unemployment could be provided on the lines of that provided under the Mathadi Workers’ Act. Other forms of social assistance, such as loans for housing and higher education, marriage and funeral assistance, etc., could be provided progressively. Higher benefits than those provided under the minimum social floor could be provided on the basis of a fixed amount of contribution to be made for each additional or higher benefit.

Those earning less than a certain income limit could be excluded from having to make a contribution and the state could stand in on their behalf.

Employers’ and state’s contributions

The question then arises as to how the employers’ and state’s contributions are to be collected. The contributions of the employers towards the social security of their unorganised workers can be collected as a cess on the employers’ annual turnover or on the overall record of workers employed by them, but not in the individual workers’ names, which is the bug-bear of all employers. The draft Bill of the National Commission on Enterprises in the Unorganised Sector (NCEUS) headed by Sri Arjun Sengupta recognised that unorganised workers will never be able to contribute the full cost of their social security and that the state will have to contribute a share to make up the difference.

The National Social Security Fund, foreseen in the draft Bill of the NCEUS was to be financed from the contributions at rupee one per day by workers, employers and the government (i.e., Rs. 3 per worker per day or Rs. 1,095 per year). The government contribution was proposed to be divided between the Central and State governments in the ratio of 3:1 respectively (Rs. 0.75 per worker by the Centre and Rs. 0.25 per worker by the State governments). The state subsidy was proposed to be collected by means of a grant, tax or cess. This could very well be on articles of conspicuous consumption. Experts opine that the adequacy of the amount suggested by NCEUS needs to be tested by an actuarial study.

Workers' Facilitation Centres

The Workers' Facilitation Centres at grassroots level could be the point of interface between the worker and the social security system. These centres, under the supervision of the Grama Panchayats and Nagarapalikas, could be responsible for the registration and record-keeping and provide workers with copies of the records. In place of the deductions by the employer from the wages of the unorganised worker, the worker could make mandatory annual contributions to a social security fund through the Workers' Facilitation Centres, wherever he is currently employed and also receive benefits through them.

The National Advisory Council has recommended that the WFCs shall provide the following services to workers.

- Information dissemination among workers about the Scheme.
- Register and deliver Smart Cards to all households; special efforts must be made to reach those workers who are normally not reached, as mentioned above.
- Collect contributions from workers with the help of village-level facilitators.
- Pass on the contribution to the fund manager on line.
- Deliver annual financial statement to each household.
- Collect application forms regarding (i) Life & Disability Insurance claim (ii) Maternity Assistance claim (iii) Sanction of Pension and (iv) Refund of corpus claim
- Scanning and uploading all the claim documents to the web server for processing of claims.
- Enable those covered under pension scheme to open a bank account / postal account for receiving the pension on crossing 60 years.
- Scan and upload the application forms to the Central Record-keeping Agency (CRA).
- Submission of physical application forms to the CRA.
- Renewal of membership and collection and transfer of members renewal contributions to fund manager.
- Grievance redressal: WFCs will be the first point of contact for grievance redressal. Complaints and grievances from WFCs will be placed in the state-level boards/authorities. We propose the setting up of State level Call Centres for registration of grievances, claims, coordination and follow-up with service providers on grievance redressal.

Aggregators: The National Advisory Council has recommended "Aggregators". Among others, they have suggested that Aggregators could play the following roles in the implementation of the minimum social security package :

- Mobilizing, enrolling and registering workers and their family members at the habitation level. Special efforts must be made to ensure that the most disadvantaged of workers, including migrants, nomads, Dalits, Adivasis, minorities and others, are reached, enrolled and registered.
- Workers' education and promoting the minimum social security package, including generating awareness about the need for social security among the workers.
- Issuing of Smart Cards.
- Updating data and submission of applications to Central Record-keeping Agency (CRA).
- Collecting registration fee from subscribers and ensuring its passage to SSSS (State Social Security Society)
- Ensuring availability of services to its underlying subscribers as mandated under the package.
- Handling grievances received from subscribers and their resolution.

They have suggested that Aggregators could include: SHGs and their Federations including those who are already formed or mandated to be formed under the National Rural Livelihood Mission (NRLM), registered workers unions, commercial banks, Department of Posts, public sector insurance companies, Non-Government Organizations (NGOs), membership-based organizations like cooperatives, Civil Society Organizations (CSOs), entities running common service centres under National E-Governance Plan.

A common Information & Communication Technology (ICT) architecture: NAC further recommends that a common ICT architecture, which could be Aadhar based, must be developed for the effective and efficient implementation of the minimum social security package. The already existing RSBY ICT platform could be used and further developed for this purpose. End-to-end computerization, including a portable Smart Card for the workers, must be effected without delay. The ICT architecture developed by existing Workers' Welfare Boards will need to be merged into one common ICT architecture.

A framework for providing universal social security to unorganised workers
<ul style="list-style-type: none"> • The definition of an unorganised worker should encompass all unorganised workers in irregular, casual employment, and those workers in the formal sector who are not covered by the ESIC, EPFO. Those workers already covered by ESIC and EPFO and the self-employed and others paying income-tax should be excluded. • An unorganised worker should register himself through a self-affidavit.

- Schemes should apply commonly to every unorganised worker, irrespective of sector.
- Registration should be through an area-based approach and not sector-based approach.
- There should be Workers' Facilitation Centres for registration, service delivery and grievance redressal through a single window, run by local governments, i.e., grama panchayats and at ward level in urban local bodies.
- Aggregators should help create awareness and muster registration of workers.
- The USWSS board should achieve financial independence through: compulsory annual contributions from workers to cover all benefits as a percentage of their annual earnings. Those earning below a certain income limit to be exempted from payment of any contribution as in the ESIC . Government should pay a matching grant.
- A cess could be imposed on all employers based on their annual turnover or number of worker mandays of employment for unorganised workers provided by them to garner the employers' contribution.
- An actuarial study needs to be conducted to test the adequacy of the amount to be collected for social security suggested by the Arjun Sengupta committee: one rupee per day from worker, employer and government to provide total social security to all unorganised workers.
- Since the self-employed have no employer, the state should match twice the contribution made by the self-employed worker.
- All the cess amounts, government's matching grant and worker contribution should be placed in a common social security fund.
- The scheme should provide the following social security benefits prescribed by ILO, i.e., medical care, sickness benefit, family benefit including child care benefit, maternity benefit, accident injury/ disability/invalidity benefit, death benefit, survivor's benefit and old-age pension as a minimum social floor.
- Unemployment benefit on the lines of that provided under the Mathadi Benefit Act could be thought of for unorganised workers.
- Identification of beneficiaries or their registration should not be out-sourced to private agencies or private insurance firms.
- The various sector-based and/or multiple and overlapping schemes for unorganised workers run by the government or government-set up bodies, such as the schemes for beedi workers, mine workers, cinema workers, construction workers, etc., and their administrative machinery should be rationalised and integrated and brought under a unified administrative mechanism gradually, covering all unorganised workers.

- There should be two boards: one for wage workers and one for self-employed workers.
- The quantum of periodical payment of benefits for injuries, disability/invalidity, pension, etc., should not be less than 45% of monthly earnings. Those wishing to have higher benefits could pay higher contributions.
- The quantum of minimum floor benefits should be high enough to enable a decent standard of living for the workers. Higher benefits should be available on payment of higher contributions.
- Medical care should entitle worker and up to four members of his family to primary, secondary and tertiary care in a cashless manner, at any government hospital, and in empanelled hospitals for tertiary care, with no caps for each kind of medical intervention as in the ESIC.
- In addition, the Board could provide marriage benefit, funeral assistance, loans for higher education, skill training, housing, etc, in a phased manner.
- There should be an Aadhar-based central data-base of all workers to allow portability of benefits in case of migration of workers.
- All registered workers should get a smart card, ID card and book where the record of their employment in various establishments and wages earned, contributions made should be recorded. The card should be portable.