

## IMPLEMENTATION OF SOCIAL SECURITY ACT, 2008 IN INDIA

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*Social Security Act for unorganized Workers was enacted in 2008 in order to provide social security measures and implementation of welfare schemes for the workers engaged in unorganized sector of economy. The Unorganised Workers' Social Security Act, 2008 (UWSSA) defines an unorganized worker as a home based worker, self-employed worker or a waged worker in unorganized sector including unprotected workers in organized labour sector. Unorganized workers constitute nearly 94% of India's total workforce. While successive governments have failed to enact a comprehensive legislation for the welfare of unorganized workers, various schemes of social security for such workers were initiated in the past. These social welfare schemes range from old age pension to death and disability insurances for poor and vulnerable labourers. The Unorganized Workers' Social Security Act, 2008 enacted by erstwhile UPA government was an initiative to streamline such schemes and ensure their effective implementation. The Act provided for effective implementation and expansion of existing social security schemes in order to cover the large population of unorganized workers. This paper is a brief attempt to review the implementation of the Act and social security schemes scheduled under it.*

### INTRODUCTION

An Act of 33 of the year 2008 was enacted by the Parliament of India with the short title as "The Unorganized Sector Workers, Social Security Act, 2008". This Central Government Act is provided with the purpose and object of providing social security and welfare of the unorganized workers. The legislation was assented by the President of India on 30th day of December 2008 and the provisions of this Act were extended to the whole of Indian territories. The provisions of the Act are divided into six chapters containing several provisions, and the first Chapter therein makes preliminary provisions including short titling, extension and commencement of the Act. The „Unorganized Workers Social Security Act, 2008 also provides for constitution of National Social Security Board which shall recommend social security schemes such as life and disability cover, health and maternity benefits, old age protection and any other benefit as may be determined by the Government for unorganized workers. The National Social Security Board was constituted vide Notification number S.O 2132 (E) dated 18.8.2009.

“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”. “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 Acts mentioned in Schedule II of the Unorganized Workers Social

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security Act 2008. Unorganized worker” means a self-employed worker or a wage worker in the unorganized sector and includes wage workers in the organized sector without any social security cover. Social security may be defined as any programme of social protection established by legislation, or any other mandatory arrangement, that provides individuals with a degree of income security when faced with the contingencies of old age, survivorship, incapacity, disability, unemployment or rearing children. It may also offer access to curative or preventive medical care. As defined by the International Social Security Association (an international institution to promote dynamic social security), social security can include social insurance programmes, social assistance programmes, universal programmes, mutual benefit schemes, national provident funds, and other arrangements including market-oriented approaches that, in accordance with national law or practice, form part of a country’s social security system.

## REVIEW OF LITERATURE

Varia and Becker (2012)<sup>1</sup> domestic work is not recognized as work and is not included in government legislations and labour rights, especially in developing countries. Within the domestic worker industry, stories of immoral working conditions, exploitation and verbal, physical and sexual assaults are often disclosed by media reports, labour and migrant organizations (ILO 2010: 25-36).

Kimera Musooka Moses (2010)<sup>2</sup> conducted a study on ‘Dignity of Workers in Wakiso Town: Wakiso District’. The study contributed to the management theory and practice by establishing the thesis that regard for workers ‘dignity by the tripartite partners (employers, employees and the government) is indispensable for the improvement of the worker’s conditions. Huimin Du and Si-ming Li (2010)<sup>3</sup>, have been observing China’s economic reform and the process of urbanization. In this development trend, both of them focus on the “urban villages” laborers’ socio-economic background, life satisfaction, living environments etc., to describe the situations in detail, and at the same time use “community satisfaction” and “community contacts” to explore the emotions of these “urban villages” laborer’s emotions about the community. Bairagya Indrajit, (2009)<sup>4</sup> conducted study on “Measuring the Informal Economy in Developing Countries”. The goal of this study was to measure the economic importance of the informal sector in Indian economy by its share, growth and composition from the year 1970 to 2006. Another objective was the measurement of efficiency performance of the unorganized sector. Tous Sophorn, Veasna Noun (2009)<sup>5</sup> conducted Study on ‘Living and Working Conditions of Domestic Workers in Cambodia’. The results of the study confirm the need for action to promote and protect the rights of domestic workers required. Nazir Saima (2008)<sup>6</sup> conducted a study on ‘Socio-economic Conditions of Females Domestic Workers Before and After Migration in Faisalabad City’. The study revealed the generality of domestic employees working in private residences and the predominance of females as domestic help. They faced problems like health expenditures, working at more than one place, no overtime payment or timely payment and no local holiday. The principle focus was to examine the work situation, compensation configuration and impact of “internal migration” and other aspects of this unorganized sector. Convenient random

sampling technique was used for this study. Results indicated that they were not getting their salaries in accordance to the working hours. However, a clear connection between “internal migration and higher social, economic status, better living conditions and children education was found”.

Migrant Alliance (2007)<sup>7</sup> The export of labor in Indonesia has become part of the country's development plan in addressing poverty recorded remittances sent by Indonesian migrant workers were up to U.S\$ 5 billion. Despite this large contribution, Indonesian domestic workers' rights are neglected both in their home country and abroad. Gaines, Head Jordan, Mokey Matthew, Potemski Amy, Stepansky Michael, Vance Amy (2006)<sup>8</sup> conducted a study on working conditions of domestic workers in Montgomery country, Maryland. Domestic workers are consistently divested of health, retirement and regularized leave provisions. Anderson and Rogaly (2005)<sup>9</sup> documented that Services provided by franchises and agencies for example are arguably easier to commodity because they do not involve personalized relation between householder and worker, the worker may not technically be an employee of the householder at all but is self-employed or an agency worker. The 2nd Asian Pacific seminar on Construction Workers Problems and Future Tasks (2004)<sup>10</sup> made an attempt to bring out many information covering the entire Asia-Pacific Regional problems of construction industry, workers, activities of trade unions and published a booklet on the problems of construction workers covering various aspects like attack of liberal policies on organized sector and unorganized sector, occupational health and safety problems and problems and solutions of migrant labour. Sharma (2001)<sup>11</sup> described that Rapid Assessment on child domestic laborers' carried out in Nepal have reinforced that there is a preference for hiring younger. Children for domestic work. Gurowitz (2000)<sup>12</sup> the problem for female migrants is their migrant status. In Malaysia, migrant workers face more legal limitations and exclusion. The fear of job loss, and subsequently the loss of their in-house accommodation, makes the MDWs dependent on employers. Glenn (1992)<sup>13</sup> said that domestic workers have always been amongst the most exploited workers. They are channeled into paid domestic work on the basis of several axes of differentiation - race, class, and gender - which are reflective and generative of social stratification more broadly. James Midgley (1984)<sup>14</sup> analyzed the role of social security schemes in developing countries from an egalitarian angle and found that the prevailing Social Security Schemes in developing countries cover only a small portion of the total labour force and majority of the workers working in the unorganized sector are excluded.

Kalyani (2015)<sup>15</sup> in this article author has analyzed the condition of the unorganized workers who generally considered as the core strength of Indian labour force. It is widely acknowledged that the informal sector in India suffers from a low productivity disorder, compared to the formal sector. Author has suggested by improving the security needs of the unorganized sector like Food, Nutrition, Health, Housing, Employment, Income, Life and accident, and old age. Still the exclamation of the unorganized sector drives unattended with the governments. Devi et al (2015)<sup>16</sup> the authors tried to judge the working conditions of the people working in various organizations. Under

present globalized working environment it is important to make the employees The present study is a critical examination of the selected cases exist in the literature on the musculoskeletal disorders among the workers performing similar types of works in different industry, and answer the question whether types and level of musculoskeletal disorders among the workers engaged in these industries are same or not.

Report of Srijana (2015)<sup>17</sup> this study aims to focus on artisans living in and around Lucknow. Most of the literatures identified that the socio economic conditions of the artisans are not good hence need improvement. In the surrounding area of Lucknow, the capital of Uttar Pradesh has a copious number of artisans working in un-organized sector. The study recommended that the women workers should get adequate training on skill enhancement. Chitra (2015)<sup>18</sup> in this paper author tried to identify the problems of women workers in construction industry at Tiruchirappalli. It was aimed to find out the social-economic conditions of the women constructions workers. It also tried to find out the association between the social-economic, occupational, personal and family aspects of women constructions workers. This paper has analyzed the characteristics of the women construction workers, mainly migrant workers and the intervention strategies adopted to facilitate the reach out services to these women workers along with awareness of their rights and utilization. Migrated construction workers faced some major problems like poor health condition, difficult working life, harassment, inadequate and unequal wage structure, long working hours, poor housing facilities, lack of safety measures and proper education for children of construction workers.

Kapur et al (2014)<sup>19</sup> in this paper the researcher tries to make an effort to understand the working and living conditions of workers in the unorganized sector and tried to identify the gaps between organized and unorganized sector. Unorganized sectors are characterized by seasonal employment and contractual work situation. There are no social security and welfare legislations. In this sector people face problems like poor health conditions, substandard working life, and harassment at work, inadequate and unequal wage structure, long working hours, poor housing facilities, lack of safety measures, and no proper education for children of the workers. India Labour and Employment Report (2014)<sup>20</sup>, showed that a devastatingly large percentage of workers (about 92 per cent) are engaged in informal employment and a large majority of them have low earnings with limited or zero social protection. An initial Employment Situation Index (ESI) has been prepared for this report which shows that generally workers in the southern and western states of India have much better access to good quality of employment than central and eastern region. It has been stated in the report that regulatory interventions in informal enterprises should ensure that a minimum quality of employment is maintained and basic rights of workers are respected. Suitable policies and measures to address the issue of education and skills acquisition need to be urgently put in place. CII Report (2014)<sup>21</sup> has identified the worrying trend that the rate of informal employment is also increasing even in the organized sector. It has been stated in this report that the National Commission for Enterprises in the Unorganized Sector (NCEUS) has defined the informal or unorganized sector as all independent 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 workers.

Bora (2014)<sup>22</sup> in this article author has examined the activities of the secondary and tertiary sectors which are concentrated mostly in large towns and cities, and attract internal migration. The data has been collected from slum households in three states, i.e. the National Capital Territory (NCT) of Delhi, and in two towns of the National Capital Region (NCR) of Haryana and Uttar Pradesh states in India. It can be found that the workers are far behind in cases of safety, medical provisions, and social security for self and dependents. Author has suggested that policy should create consciousness among officials that resolving these issues would complement to poverty alleviation and, therefore, resources should be made available. Bharati et al (2014)<sup>23</sup> this paper has discussed the condition of child labour in construction workers, agriculture laborers and domestic helpers working in the unorganized sector in the India. An attempt has been made in this paper to understand the socioeconomic condition of the child laborers families. This sector is characterized by seasonal employment (in agricultural sector), contractual work, no social security and welfare legislations, no rights and minimum wages. They face problems like poor health conditions, substandard working life, and harassment at work, inadequate and unequal wage structure, long working hours, poor housing facilities, lack of safety measures, and no proper education for children of workers. Patnaik et al (2014)<sup>24</sup> the authors discussed the various socio economic issues faced by the people staying in slums. In this quantitative study, three slums are taken into consideration to study the impact. Most of the people are engaged in informal sector and have little earnings. Low level of earning is creating havoc impact on their socio economic status. Lack of income generating opportunities is a problem which restricts them to access quality education and healthcare facilities.

Beevi (2014)<sup>25</sup> the authors conducted a study on women workers in the textile sectors. Traditionally women workers are habituated to work in an unorganized working environment and most of the time they are underpaid. Being in the productive income generation field for a long period of time, they are denied their rights to earn more and right to engage in skilled workforce of the organization. The study reveals that the women unorganized workers are apparently happy with their job though they are underpaid. This is because of the facilities that the organization is providing other than the regular wages. Continuous work pressure and seasonal demand for the job is also another area of concern faced by the women workers. Report of Ministry of Labour & Employment (2014)<sup>26</sup> the report is a study on socio economic conditions of women workers in industry. The daily wage concept is a problem and this problem exists irrespective of the gender. The report also reveals that the women workers who working in the match industry are paid much lower wages compared to the other workers working in other units of the same production house. This kind of disparity is a problem and sometimes affects the socio economic upliftment of the women members of the organization. Mohanraj (2013)<sup>27</sup> the author gave a detailed analysis of Indian unorganized sector with the help of a primary study. Most of the workers who are comes under the category of daily wage labourers as well as the household workers are coming

from women segment. Like agricultural sector, these workforces are working in other sectors as well. A typical unorganized sector neither offers any kind of security benefits nor provides any kind of proper working environment. Moreover, the wage differences are also huge between organized and unorganized sector. The policy intervention is needed to identify the gaps. Along with the government the industry body should also take the responsibility to bring necessary changes in the situation.

Kannan & Jain (2013)<sup>28</sup>, for the working poor, it is as important to provide for out-patient care as for in-patient care. The same authors point out that the incidence of the former is likely to be much less than that of the latter. In order to eliminate this deficiency, the scope of RSBY for the unorganized sector will need to be expanded to cover outpatient expenses up to Rs.7,500, as has been done for handloom weavers and handicraft artisans. Kishore CSamal (2013)<sup>29</sup> the unorganized labour work for low wage, with more women workers, engaging family labour, home based works, instances of child labour, migrant workers, piece rate payment, contractual employment, recruitment through contractors, seasonal employments, under employment, casual works, self-employments, cooperatives for employees, not organized into trade unions, no much recourse to collective bargaining, hazardous job and debt bondage. Report on the Working of the Minimum Wages Act, by Government of India (2013)<sup>30</sup> lack of uniformity in wage structure is found across the states and union territories due to the application of the Minimum Wages Act only to the scheduled employments, in cases where the State Government fails to include particular employment within the scheduled list, are not covered under this legislation. Kannan K.P (2012)<sup>31</sup> workers are poor due to the low income and uncertain employments, facing problems to manage social and cultural life with poor economic status. Increased indebtedness in the agricultural sectors resulted in the increase of suicide of farmers.

Gender and Economic Policy Discussion Forum (2012)<sup>32</sup> the migrant workers have no right to bargain and works for less wage. Illiteracy, lack of awareness, lack of regulations and social isolation are the hurdles from unionizing. In spite of employment opportunities it generates and contributions to the Gross Domestic Product of the country, it lacks in the legal status affecting workers right prospects drastically. They cannot voice their demands or object the adverse attitude of the employers to protect their self interest. Dave Vandana (2012)<sup>33</sup> conducted a study on Women Workers in Unorganised Sector. The study focused on female construction workers, agriculture workers and domestic workers. Workers faced problems like disparity in wages where female workers were paid less. Working hours were not fixed and harassment at work place was common. Das Kabita, Das B.K, Mohanty Subhransubala (2012)<sup>34</sup> conducted a study on Social Security in Informal Sector. The aim of this paper was to know the degree of social security of the working women in the informal sector in Odessa. Available data suggested that social security in the organized sector was steadily shrinking but the major concern was for informal sector which imposes a heavy cost on society in terms of jobs, income and health care.

Remesh P. Babu (2012)<sup>35</sup> conducted a study on 'Rethinking Social Protection for

India's Working Poor in the Unorganized Sector'. This study gave importance to social security. Kumar M. Dileep (2012)<sup>36</sup> conducted a study on Inimitable Issues of Construction Workers. Construction workers are available everywhere in all countries. The study stressed on the need to create awareness of all labour rights and recommended proper intervention programme as well as proper implementation of labour law for this sector. Sankaran Kamala and Roopa Madhav (2011)<sup>37</sup> the life of unorganized sector workers is very tough. Social workers and educationists have been for a long time concerned more with women empowerment and have contributed a great deal in focusing attention of the people to the importance of several factors which should be taken care of in helping women to develop fully. The coverage of labour laws has not benefited these women workers in many crucial area, especially health, maternal and social security. A striking feature of most unorganized sector employment is that workers are employed largely through unorganized contractors or subcontractors.

Sodadas Kumar Vijya (2011)<sup>38</sup> conducted a study on the working and living conditions of stone quarry workers. This study attempted to discuss the problems faced by stone quarry workers in India. The study examined the hiring practices, compensation, the role of government and trade union in this sector. In this regard not much help is provided by the government and legal frame work of the country.

Paul G D Bino, Datta Susanta, Murthy R Venkatesha (2011)<sup>39</sup> conducted a study on Working and Living Conditions of Mumbai Women Domestic Workers. Based on the findings, the need to create a comprehensive social security system for domestic workers in India. Geetha K.T. (2010)<sup>40</sup> conducted study on Women in Informal Sector. This study was focused on different types of socio-economic problems of female workers in urban informal sector. Findings revealed that females in informal sector were overburdened with work and exploited. It was recommended that at the policymaker level, required policy should be prepared and appropriate steps should be taken to improve working and living condition of female workers in this sector. Kulwant Rai Gupta (2009)<sup>41</sup> problems of unorganized labours are multifarious in nature, hence confining this sector within a comprehensive framework is difficult. Changes in the trade and technology, global linkages are the threat to this sector. Employees has low job security, poor career growth, less leave and paid holidays, less protection against unfair trade practices. Mukherjee Piu, Paul G D Bino, Pathan J.I (2009)<sup>42</sup> conducted a study on the migrant workers' working condition in informal sector. The study reviewed how the migrants survived the expected deficiencies and dispossessions and also the role of labor brokers in this arena. The research examined the seasonal construction workers and 'naka' workers in Mumbai and concluded that there was no social security and sustained human development. Jyoti Bharat (2008)<sup>43</sup> conducted a study on Socio-economic status of the women domestic workers. This study was exploratory in nature and provided valuable insights into the working and living conditions of women domestic workers. There was no legal protection system. Mathew K. Tinu (2008)<sup>44</sup> conducted a study on the role of social movements in organizing the unorganized sector workers LEARN, Dharavi. This study tried to detect the problems as well as the prospects entailed in systematizing the unorganized workers and recognize the part social movements can

play in regulating the unorganized sector workers.

Kundu Amit (2008)<sup>45</sup> conducted a study on Conditions of 'Work and Rights of The Female Domestic Workers of Kolkata'. This study focused on women working as domestic helps in private houses. Suggested that the Government of India should implement schemes, rules and rights for betterment of their working and living condition. Garg and Karan, (2006)<sup>46</sup> The risk of health insecurity needs to be distinguished into kind of illness that can be treated with medication at home and major illness necessitating hospitalization. This latter can be termed as 'catastrophic' risks. Catastrophic risks have been categorized as those where the household health expenditures exceeded a certain fraction of total household expenditures or of their ability to pay. Household expenditure above 5 percent of total and non-food expenditure of the household was taken to be catastrophic. More than 3.4 percent of households, approximately 6 million, faced catastrophic risk of spending more than 40 percent of their total non-food expenditure on out of pocket expenditure. Mehrotra (2008)<sup>47</sup> analyzed the conditions of work (for example, hours of work, hazardous nature of work, safety conditions and wages rates) in the prevailing labour market conditions, where there is excess supply of labour. The unorganized sector workers themselves are fragmented and almost always not organized into unions, where they suffer from access to imperfect information and are not fully aware of their limited rights. The Ministry of Labour and Employment (2008)<sup>48</sup> conducted a survey in six states namely Assam, Tamil Nadu, West Bengal, Kerala, Karnataka and Tripura to assess the socio-economic conditions of women labour in plantation industry during the period September - October, 2008. The survey was conducted in 4 plantations viz. tea, coffee, rubber and cardamom. Every state decides individually on laws about domestic workers. Ramadhar Giri (2007)<sup>49</sup> Increasing demand for the workers in agriculture, the instances of bondage of the children of indebted labourers, who are forced to work in return for the debt. Bondage is common in carpet weaving, cloth printing, explosives, fireworks, cigarette making, printing and soldering jobs. Kannan and Srivastava (2006)<sup>50</sup> overviewed a comprehensive social security scheme for the unorganized sector which had been proposed for the first time in India. The proposal by the National Commission for Enterprises in the Unorganized Sector (NCEUS) sought to develop a healthy workforce that in turn would have a positive impact on national income and economic growth. The scheme was aimed to cover sickness, maternity, old age and death and proposed a participatory system with some contribution from the workers. Sakthivel and Joddar (2006)<sup>51</sup> analyzed that the coverage of social security schemes had been largely against economically and socially vulnerable sections while regular workers were largely covered by the provident fund regime. J.Y. Suchitra and D. Rajasekhar (2006)<sup>52</sup> found the difference in the extent of employment security faced by different occupational groups within the unorganised sector and the factors influencing the same. They argued that a one-size-fits-all policy for the entire unorganised sector would be inadequate because of its failure to address the sector-specific needs of workers. A study in Karnataka used a participatory method to derive the felt social security needs of unorganised sector workers. Among the workers surveyed 92.3 percent felt that benefits towards old age, unemployment, death,



sickness and employment injury were relevant for them. Women in the reproductive age groups also felt that maternity benefits were important brought out that old age was a major concern of the workers. Agricultural labourers and construction workers in the study reported the fear of not being able to work during old age. Insecurity with regard to old age was perhaps due to the breaking up of the joint family system and also because the poor were more likely to be in nuclear families. Most of the workers who reported old age insecurity as the most important were those who were above the age of 41 years. Dubey et al (2006)<sup>53</sup> argue on the basis of their analysis of the 1999- 2000 round of the NSS that individuals from scheduled castes and scheduled tribes and those with little or no education are less likely to migrate to urban areas. Chen (2005)<sup>54</sup> in a compilation of studies conducted on the poor working women of SEWA, noted that the most common risks include illness and loss of job. Members of SEWA who were all poor self-employed women, emphasize that 'health, is their only wealth'. Study group for construction of National Commission on Labour (2005)<sup>55</sup> reported that quarries, brick-kilns and construction sites engage bondage extending over generations through child labour. Amartya Sen and Jean Dreze (1990)<sup>56</sup> state that security of needs like food, health care, housing and child care, is empowering for vulnerable unorganized sector workers and helps them to alter their bargaining positions in the market.

#### **IMPLEMENTATION OF ACT**

Workers play an important role in the industrial production of the country. Hence, organizations have to secure the cooperation of workers in order to increase the production and to earn higher profits. The cooperation of workers is possible only when they are fully satisfied with their employer and the working conditions on the job. In the past, industrialists and the employers believed that their only duty towards their workers was to pay them satisfactory wages and salaries. In course of time, they realized that workers require something more important. In addition to providing monetary benefits, human treatment given to workers plays a very important role in seeking their sectors. The sectors having realised the importance of welfare and social security measures introduced several welfare schemes for its workers and the families. For instance, the company provides statutory welfare facilities like drinking water, conservancy, medical appliances, canteen, rest shelters, crèches and the like. It also provides various non-statutory welfare facilities such as medical, education, recreation, housing/quarters and so on. Further, it provides social security measures like provident fund, gratuity, pension, dependent employment etc. In short, due to the welfare and social security measures provided by the company, its workers have been working with involvement and commitment. Consequently, the performance of the company is quite commendable.

On December 30, 2008, with the president's assent, The unorganized Sector Worker's Social Security Act, 2008 (Act No 33 of 2008) came into force. This legislation was an outcome of years of campaigning by organizations working with unorganized sector workers. During the years 2006 and 2007, the slogan Social Security Now had reverberated across lanes and streets in different cities. Millions of workers marched to

draw the attention of India's lawmakers to their grief and acknowledge their rights. The workers' movement had attained a milestone; a social security law was enacted but the struggle was not yet over. The more painstaking part of the struggle, of ensuring that all state governments and Union territory administrations notified the rules and constituted the Social Security Boards for unorganized sector workers was just beginning.

As a follow-up, a National Social Security Fund (NSSF) for unorganized sector workers was set up in 2010-11 with an initial allocation of Rs 1,000 crore. Announcing this in his budget speech, then finance minister Pranab Mukherjee had stated: "Recognising the need for providing social security to the workers in the unorganized sector, and as a follow up to the unorganized Sector Workers Social Security Act, 2008, it was decided to set up a National Social Security Fund for unorganized sector workers with an initial allocation of Rs. 1,000 crore. This fund meant to support schemes for weavers, toddy tappers, rickshaw pullers, bidi workers etc". As per the survey carried out by the National Sample Survey Organization in the year 2009-2010, the total employment in both organized and unorganized sector in the country was of the order of 46.5 crore. Out of this, about 2.8 crore were in the organized sector and the balance 43.7 crore in the unorganized sector. Out of 43.7 crore workers in the unorganized sector, 24.6 crore workers were employed in agricultural sector, 4.4 crore in construction, and the remaining were in manufacturing activities, trade and transport, communication and services. A large number of unorganized workers are home based workers and are engaged in occupations such as bee rolling, agarbatti making, pappad making, tailoring, and embroidery work. More than 90% of workforce and about 50% of the national product are accounted by the informal economy. A high proportion of socially and economically underprivileged sections of society are concentrated in the informal economic activities. As mentioned earlier, a large number of women are working in the informal sector. They face a number of problems also.

According to National Sample Survey Organization (NSSO), 30 million workers in India are constantly migrating from one place to another. The women workforce is continuously increasing from the year 2000 onwards. Every day 13000 Indians turn 60 years and they are expected to live another average of 17 years. Unfortunately only 10% of the Indians save for old age. The tragedy is that the existing social security legislations cover only 8% of the total work force in India. Their future is very dark. The report of the NSSO in 2011 very clearly shows that there is significant increase in the number of casual workers and decline in the number of regular workers. The social security schemes for the unorganized sector, in addition to enhancing labour-market efficiency and providing income security to the poor and vulnerable, also address multiple facets of poverty by building resilience against socio economic crises and shocks, e.g. health hazards, disability, unemployment and old age. According to the World Bank (2015), social safety nets reduce the poverty gap by 15 percent and the poverty headcount rate by eight percent. As highlighted by the International Labour Organization (ILO) and the G20 forum, social-protection systems act as self-regulating economic stabilizers, boost employability and fortify aggregate domestic demand, thus facilitating the transition into a more formalized economy. Besides the Central

Sector Schemes of Social Security of Unorganized Workers, Several state governments have introduced health-insurance programmes to facilitate improved access to quality healthcare for 'below poverty line' (BPL) families, with coverage ranging from INR 100,000 to 200,000. Some of the notable initiatives include the Rajiv Aarogyasri Scheme (RAS) in Andhra Pradesh, the Mukhyamantri Amrutum (MA) Yojana in Gujarat, the Chief Minister's Comprehensive Health Insurance Scheme (CMCHIS) in Tamil Nadu, the Chief Minister's Distress Relief Fund (CMDRF) in Kerala and the Chief Minister's Relief Funds (CMRF) in Rajasthan.

The Act provides for the establishment of National Security Board for the unorganized workers at national level and also social security board in each State for the welfare of unorganized workers to exercise their powers and functions assigned to them. All the unorganized workers is needed to register themselves as an unorganized worker as to get benefited from the schemes. A child who has attained the age of 14 years is also entitled for registration. The registration is made by the State Governments at district levels providing them "smart card" with identification number so that they will be eligible for suitable security schemes. As per available information, States of Karnataka, West Bengal, Chhattisgarh and Assam have constituted State Social Security Board and framed Rules under the Unorganized Workers' Social Security Act, 2008. State of Gujarat, Orissa, Kerala and Tripura have framed rules only. State of Tamil Nadu has, however, informed that there is no requirement of constitution of State Social Security Board in the State as it is already implementing various welfare schemes for unorganized workers.

## **INTERNATIONAL STATUS**

Social security was established as a basic human right in the ILO's Declaration of Philadelphia (1944) and its Income Security Recommendation, 1944 (No. 67). This right is upheld in the Universal Declaration of Human Rights, 1948, and the International Covenant on Economic, Social and Cultural Rights, 1966. The right to social security ensures that everyone, regardless of age or ability to work, is guaranteed the means necessary to procure basic needs and services. Several key human rights principles are fundamental to guaranteeing the right to social security. Social security must be provided without discrimination (in intent or effect) based on health status, race, ethnicity, age, sex, sexuality, disability, language, religion, national origin, income, or social status. More than 60 years after the adoption of the declaration, more than 80 per cent of the global population is not covered by social insurance that can guarantee such security. In most developed nations, social protection –in different flavours – contributes to maintaining the fabric of society. In many less developed nations, social security, whether publicly or privately provided remains the purview of civil servants and formal wage workers, who are often a minority. Indeed, payroll-tax financed

contributory social security exists in most countries, but the prevalence of informality generates a number of challenges in extending their coverage. As a result, the majority of the population remains outside their remit. Only 26.1% of the working-age population in sub-Saharan Africa has access to old-age coverage, 17.1% to protection against employment injury and a meagre 1.1% to unemployment insurance. Other developing regions have slightly higher levels of protection but are still considerably below the level of developed countries. In response to these challenges, and in some cases spurred by the availability of greater fiscal space that has accompanied the past ten years of "Shifting Wealth", a number of countries have established social protection programmes based on new instruments. Their success has generated much attention among donors and policy makers in other Southern countries. They include, among others, anti-poverty measures such as conditional cash transfers or social pensions, tools to universalise health coverage through community-based health insurance or the establishment of national health services that interface with more traditional institutions. Most countries in the world have some form of contribution-based social insurance system. However, only a minority of countries has comprehensive social security systems<sup>2</sup> (ILO, 2010). Moreover, statutory contributory schemes in most countries only cover employees and (sometimes) their dependants. Self-employed workers sometimes have access to social security systems on a voluntary basis, resulting in low coverage rates. Levels of coverage for employment injury protection and old age pensions follow the prevalence of "good quality" formal salaried employment across regions. Coverage is high in North America, Western Europe and ex-Soviet states where about 85 percent of workers are covered, but only reaches 30 to 40 percent in Latin America and the Middle East and is close to 20 percent in Asia and Sub-Saharan Africa. The prevalence of informal work generates multiple challenges in social protection. The role of informality in limiting the size of contribution-based social protection is well known and has been highlighted elsewhere (by the ILO (2010) among others). Informal workers are not covered, nor do they contribute to statutory contributive systems. Informality is of course not the only obstacle in extending social protection. Financing is a key obstacle. However, ILO (2008) estimates show that basic social protection packages are affordable for all but the poorest countries in the world and would cost between 2 and 6 per cent of GDP. OECD countries invest much more heavily in social security – generally over 20 per cent of GDP<sup>3</sup> – so the levels of expenditure for basic packages appear as affordable. However, this assumes that domestic resources can be mobilised, which is not true of all countries (OECD, 2010). Making fiscal space available is therefore a key challenge in establishing and maintaining social protection systems. The economic crisis of 2008/09 highlighted the vulnerability of populations across the world and put the extension of social safety nets firmly in the international policy agenda. Indeed, a number of fiscal stimulus packages enacted to contain the effects of the crisis and to prime the recovery contained

social protection provisions, from Western Europe to China. The rise to the front of social protection issues in both developing and developed countries is not merely a blip in the discourse. First, it responds to a series of momentous shifts in the global economy, which allow countries to finance the extension of social protection through greater fiscal space and also make social protection all the more necessary in the face of growing competition from international markets. Second, it has many concrete realisations both in the extension of established forms and in the implementation of new instruments of social protection. The rapid introduction of means-tested cash transfers has greatly increased the scale of coverage of social protection. South Africa's Child Support Grant, introduced in 1998 covered 7.7 million children by 2008, China's Minimum Living Subsidy Scheme (*DiBao*) was introduced in 1997 and reached 57 million households by 2007. The very popular conditional cash transfer (CCT) programmes in Mexico (*Oportunidades*) and Brazil (*Bolsa Família*) reach respectively 5 and 12.5 million households or about a quarter of the population in each country<sup>4</sup> (Barrientos, Niño-Zarazúa and Maitrot, 2010).

China: Separate contributions are made for unemployment benefits by the employee @ 1 per cent of gross earnings and by the employer @ 2 per cent of the payroll. The benefit is paid for up to one year if the insured has been covered for five years, for 1.5 years for coverage up to 10 years and up to two years for more than 10 years' coverage. All employees of urban enterprises and institutions are covered and self-employed persons are explicitly excluded.

Japan: All employees are covered, except those in agricultural, forestry and fishery establishments for whom there is provision for voluntary coverage. Separate contributions of 0.5 per cent of monthly earnings by the insured person and of the payroll by the employer are made for unemployment insurance. The unemployment benefit payable is 50 per cent to 80 per cent of the daily wage after a waiting period of seven days for 90 to 330 days according to the length of coverage and other factors such as age and reasons for unemployment.

Malaysia: There is no unemployment benefit programme in Malaysia.

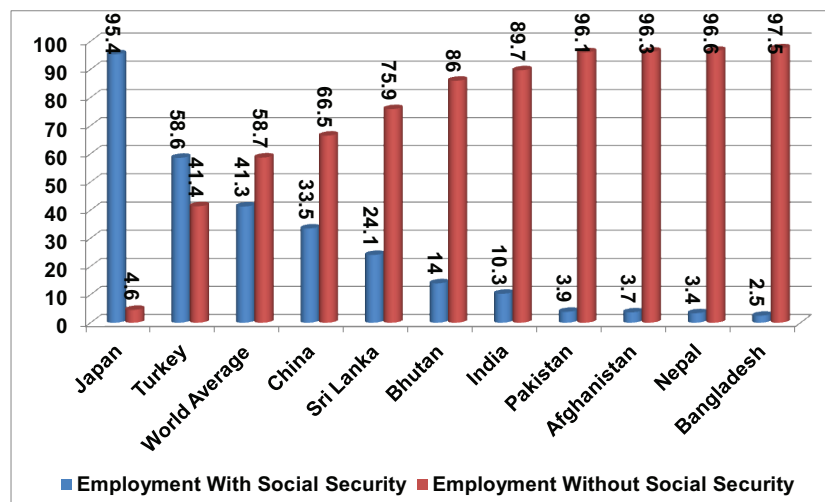
South Korea: There is a separate insurance programme for unemployment, with employees paying 0.695 per cent of gross annual wages and employers paying 0.9 to 1.5 per cent of the annual payroll. The unemployment benefit paid is 50 per cent of the daily earnings after a seven-day waiting period for up to 90 days for those with up to six to 12 months' coverage and for up to 240 days for those with more than 10 years' coverage.

Thailand: Unemployment insurance is covered by the social insurance system to which the insured persons contribute 0.5 per cent of gross monthly earnings and employers 0.5 per cent of the monthly payroll. The benefit for involuntary employment is 50 per cent of the insured's average daily wage in the highest paid three months in the nine months before unemployment and is paid for up to 180 days. Just

as unemployment benefit is not available to the unorganised sector in India, the rural and non-salaried urban workers in China and the informal sector workers do not get any protection against unemployment. In fact, in Malaysia even corporate employees do not have a social insurance against unemployment. To conclude, it is important that the rights of unorganized workers to social security are widely recognized as inalienable human rights, and not merely as goals to be achieved through public policy measures. National, State, and local authorities must be aware of this, and act accordingly.

The social security coverage in employment is necessary for protecting the interests of migrant workers, however, the coverage of social security in employment has been found low in many countries. The social security coverage was recorded high in Japan (95.4 percent) followed by Turkey (58.6 percent), China (33.5 percent) and Sri Lanka (24.1percent). It was recorded as low as 2.5 percent in Bangladesh while in India the coverage of social security against employment was reported 10.3 percent (Chart 1).

Chart 1: Social Security Coverage in South Asia (Share of Total Employment)



Source: UNESCAP SSWA (2018) Based on World Bank Data

### NATIONAL STATUS:

Lord Beveridge in the year 1941 emphasized for the first time the need of fighting the five 'Giant Evils' of Want, Disease, Ignorance, Squalor and Idleness and thus underlined the significance of social security. Social security was established as a basic human right in the ILO's Declaration of Philadelphia (1944). The Constitution of India has various provisions for social security of the weaker section of the society. Entry 24 in list III of schedule VII provides for "Welfare of Labour, including conditions of work, provident funds, liability for workmen's compensation, invalidity and old age pension and maternity benefits. Item No. 9 of the State List and item 20, 23 and 24 of Concurrent List relates to old age pension, social security and social insurance, and economic and

social planning. Further, Article 41 of Directive Principles of State Policy deals with the State's role in providing social security to the unemployed, aged, sick, disabled and other unprivileged class of people. Article 39A of the Constitution envisages that the State should provide free legal aid by legislation or schemes or in any other way to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. Article 42 of the Constitution provides that the State shall make provision for securing just and humane conditions of work and for maternity relief. The provisions of Article 43 envisages that the State shall secure, secure, by suitable legislation or economic organization or in any other way, to all workers agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities.

Social Security is a package of protection provided to workers to protect workers against contingencies of life. These contingencies are Old Age, Disability, Occupational Hazards, Sickness Maternity and unemployment. Social security may be defined as any system of social protection established by law, or any other mandatory arrangement, that provides individuals with a degree of income security when faced with the contingencies of old age, survivorship, incapacity, disability, unemployment or rearing children. There are two methods of providing social security throughout the world. One is social assistance and the other is social insurance. In case of social assistance all sorts of benefits are provided to workers by the government free of cost whereas in case of social insurance benefits are provided only when workers are contributing in a pooled fund. The fund is contributed by workers as well as government agencies. So far as social insurance is concerned it is very much difficult to apply or administer on unorganized workers. Firstly their income is not fixed, job is also not fixed, income remains very low, it is also very difficult to find out their employer since they are always changing. But still there is some possibility to insure unorganized workers with the help of local administration and employer. Social Assistance is relatively easier to implement and administer since no contribution on the part of employer or employee is required. But the problem of traceability of workers is a hard task. Workers change job, place and sometimes even state. Normally in developed countries Social insurance is more popular and in underdeveloped countries social assistance seems to be a better choice depending upon the state of the economy of the particular country. So far as Indian situation is concerned Unorganised workers have been hardly covered under any of such benefits through a legislation. The Central government for the first time in the year 2008 passed an act named "Unorganised Workers Social Security Act 2008" to protect the workers against contingencies of life. This act is applicable throughout India and applicable to Building Construction Workers also.

Following are features of the Unorganized Workers' Social Security Act, 2008. Section (2) provides for the definitions, including those relating to unorganized worker, self-employed and wage worker. Section 3(1) provides for formulation of schemes by the Central Government for different sections of unorganized workers on matters relating to (a) life and disability cover; (b) health and maternity benefits; (c) old age protection (d) any other benefit as may be determined by the Central Government.

Section 3(4) provides formulation of schemes relating to provident fund, employment injury benefits, housing, educational schemes for children, skill upgradation, funeral assistance and old-age homes by the State Governments. Section 4 relates to funding of the schemes formulated by the Central Government. Section 5 envisages constitution of National Social Security Board under the chairmanship of the Union Minister for Labour & Employment with Member Secretary and 34 nominated members representing Members of Parliament, unorganized workers, employers of unorganized workers, civil society, Central Ministries and the State Governments with provision for adequate representation to persons belonging to the Scheduled Castes, the Scheduled Tribes, the minorities and women. The functions of the National Board, inter alia, include: to recommend to the Central Government suitable schemes for different sections of unorganized workers; monitor the implementation of schemes and advise the Central Government on matters arising out of the administration of the Act. Section 6 has provision for constitution of similar Boards at the State level. Section 7 relates to funding pattern of the schemes formulated by the State Governments. Section 8 prescribes record keeping functions by the district administration. For this purpose, the State Government may direct (a) the district panchayat in rural areas; and (b) the urban local bodies in urban areas to perform such functions. Section 9 provides for setting up of constitution of Workers' Facilitation Centre to (i) disseminate information on social security schemes available to them, and (ii) facilitate the workers to obtain registration from district administration and enrolment of unorganized workers. As per the survey carried out by the National Sample Survey Organization in the year 2009-2010, the total employment in both organized and unorganized sector in the country was of the order of 46.5 crore. Out of this, about 2.8 crore were in the organized sector and the balance 43.7 crore in the unorganized sector. Out of 43.7 crore workers in the unorganized sector, 24.6 crore workers were employed in agricultural sector, 4.4 crore in construction, and the remaining were in manufacturing activities, trade and transport, communication and services. A large number of unorganized workers are home based workers and are engaged in occupations such as beedi rolling, agarbatti making, pappad making, tailoring, and embroidery work. More than 90% of workforce and about 50% of the national product are accounted by the informal economy. A high proportion of socially and economically underprivileged sections of society are concentrated in the informal economic activities. As mentioned earlier, a large number of women are working in the informal sector. They face a number of problems also.

According to National Sample Survey Organization (NSSO), 30 million workers in India are constantly migrating from one place to another. The women workforce is continuously increasing from the year 2000 onwards. Every day 13000 Indians turn 60 years and they are expected to live another average of 17 years. Unfortunately only 10% of the Indians save for old age. The tragedy is that the existing social security legislations cover only 8% of the total work force in India. Their future is very dark. The report of the NSSO in 2011 very clearly shows that there is significant increase in the



number of casual workers and decline in the number of regular workers. Since the enactment of Social Security Act 2008, a number of new schemes for social security of unorganized workers has been launched from time to time by the central Government such as NSAP, Atal Pension Yojna (APY), Pradhan Mantri Jeevan Jyoti Bima Yojana (PMJJBY), Pradhan Mantri Suraksha Bima Yojana (PMSBY), Pradhan Mantri Kisan Samman Nidhi (PM-KISAN) Yojana, Pradhan Mantri Kisan Mandhan Yojana, Pradhan Mantri Laghu Vyapari Mandhan Yojana, 2019, Rashtriya Swasthya Bima Yojana (**RSBY**) etc. In addition on above Schemes and Programmes, 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: MGNREGA, NRLM, NULM, and PMKY.

Several state governments have introduced health-insurance programmes to facilitate improved access to quality healthcare for 'below poverty line' (BPL) families, with coverage ranging from INR 100,000 to 200,000. Some of the notable initiatives include the Rajiv Aarogyasri Scheme (RAS) in Andhra Pradesh, the Mukhyamantri Amrutum (MA) Yojana in Gujarat, the Chief Minister's Comprehensive Health Insurance Scheme (CMCHIS) in Tamil Nadu, the Chief Minister's Distress Relief Fund (CMDRF) in Kerala and the Chief Minister's Relief Funds (CMRF) in Rajasthan. The Act provides for the establishment of National Security Board for the unorganised workers at national level and also social security board in each State for the welfare of unorganised workers to exercise their powers and functions assigned to them. All the unorganised workers is needed to register themselves as an unorganised worker as to get benefited from the schemes. A child who has attained the age of 14 years is also entitled for registration. The registration is made by the State Governments at district levels providing them "smart card" with identification number so that they will be eligible for suitable security schemes.

As per available information, States of Karnataka, West Bengal, Chhasttisgarh and Assam have constituted State Social Security Board and framed Rules under the Unorganized Workers' Social Security Act, 2008. State of Gujarat, Orissa, Kerala and Tripura have framed rules only. State of Tamilnadu has, however, informed that there is no requirement of constitution of State Social Security Board in the State as it is already implementing various welfare schemes for unorganized workers. However, challenges remain at the stage of implementation of the Act and coverage of beneficiaries in various social security schemes. The new social security measures for the workers of unorganized sector such as Prime Minister Shram Yogi Maan Dhan for lifelong pension, Prime Minister Jeevan Jyoti Bima Yojana for life insurance coverage, Prime Minister Suraksha Bima Yojana for accidental insurance, Prime Minister Jan Arogya Yojana / Ayushman Bharat for family health insurance are to be targeted to BoCW and their family members/ dependents. The premium in those schemes needs to be paid from the cess fund. Each State Welfare Board may strive to provide comprehensive social security to their all registered construction workers in terms of pension, life and disability cover, and health benefits. The central government is planning to give unemployment

benefits to a section of organized workers who may lose their jobs due to the coronavirus pandemic. The government's 'Atal Beema Vyakti Kalyan Yojana', which provides unemployment insurance to workers who have subscribed to the Employees' State Insurance scheme, will cover such workers during the pandemic. Ministry of Labour and Employment, Government of India is looking to extend the scheme and allow workers to avail of unemployment insurance if they are impacted by coronavirus. Ministry of Labour and Employment, Government of India has issued an advisory to employers of public and private establishments to extend their coordination by not terminating their employees, particularly casual and contractual workers from their job or reduce their wages. It advises to provide paid leaves if necessary and consider employees on duty in case of a lock down.

During 2011-12 and 2018-19, there has been only slight improvement in access to social security benefits by informal workers from 23 per cent to 26 per cent. Similarly, there has been negligible change in the share of workers eligible for paid leave or having a written job contract. In fact, in urban areas, there was a decline of 4 percentage points in the proportion of workers having a written job contract between 2011-12 and 2018-19. This indicates that the labour market policies haven't been implemented with a focus on transitioning towards ensuring formal employer-employee relationships over these seven years. At the national level, a considerable share of the informal workers in 2018-19 was self-employed (58 per cent), followed by one-fourth (26 per cent) being casual labourers, and 16 per cent regular salaried earners. Those who are self-employed can be subdivided into own-account workers, employers, and unpaid family workers. Majority of the self-employed were own-account workers in household enterprises (41 per cent of total). Again, 15 per cent of the total informal workers contributed to family-based enterprises without getting formally paid. The Government of India has initiated major labour law reforms in the country in recent years. Following the recommendation of the 2<sup>nd</sup> National Commission of Labour, the Ministry of Labour and Employment, Government of India had begun categorizing all existing labour laws into four 'Labour Codes' viz. (a) The Code on Wages, 2019; (b) The Occupational Safety, Health and Working Conditions Code, 2020; (c) The Code on Social Security, 2020; and (d) The Industrial Relations Code, 2020. While the COVID-19 pandemic threw up unprecedented policy challenges, it also exposed the gaps in India's social security policies, specifically towards informal workers (Centre for Policy Research, 2020).<sup>57</sup>

## CONCLUSION

The COVID -19 pandemic has devastated the whole economy, social fabric and the life of poor, migrants and marginalized workers. Though the migrant workers have returned to their native place, it is daunting task to provide them suitable job as a large chunk of laours and migrant workers are unskilled. The state government is no doubt striving for creating suitable business and policy environment for migrant workers, however, job opportunities are limited while agriculture sector has already absorbed for additional employment and employment avenues under MNREGA are overexploited, hence, state is looking towards MSME sector for large employment opportunities for migrant

workers. In view of the increasing employment opportunities for them, skill up gradation is called for. In view of the holistic development and empowerment of the migrant labours and their dependents, multiple approaches and multi pronged strategies are required. The effective implementation of social security and social welfare schemes besides effective enforcement of BoCW Act and *Unorganized Workers' Social Security Act is imperative*. The existing policy provisions on social security should be re-examined to guarantee certain basic minimum social security benefits to all workers irrespective of any eligibility criteria. *The* existing labour laws regarding social security for workers urgently need a robust mechanism for enforcement of employers' compliance and monitoring. Unless, there is a strong monitoring process in place, compliance to these legislations, or the scheme guidelines, will run into similar problems experienced in the past. It is a matter of serious concern that the Code on Social Security, 2020, and the Wage Code, 2019, instead of buttressing enforcement mechanisms, weakens it further by replacing the erstwhile Inspector with Inspector-cum- It is imperative to recognize that the challenge is a multi-faceted one, and cannot be dealt with a singular solution. What works for a certain region or a category of workers, might not necessarily work for another. It is vital to have a clearly spelt national policy for informal workers, including a national social protection floor.

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