

### Protecting the Unprotected

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**S**ocial Security is a prerequisite for a just and equitable society. It is for this reason therefore, the right to social security is a human right and according to Articles 22 and 25 of the 'Universal Declaration of Human Rights' enacted by the United Nations, access to social security is a basic right. The 'Social Security (Minimum Standards) Convention 102 adopted by the International Labour Organization (ILO) in 1952 also prescribes minimum standards for benefits in the important areas of social security comprising of nine provisions such as medical benefits, sickness benefits, unemployment benefits, old-age support, employment injury support, family support, maternity benefits, invalidity benefits and survivor's benefits.

India is a founding member of the ILO and has ratified several ILO as well as UN human rights instruments. Many of these are directly relevant for the social security domain, and are reinforced by the recently adopted Sustainable Development Goals. The country has well-established social security systems providing varying degrees of coverage in several of the nine branches of ILO Social Security (Minimum Standards) Convention, No. 102 (1952), which principally aim to cover formal workers in the

organised sector which includes private firms/establishments above a certain size, or public sector establishments irrespective of size. These measures also extend some coverage to informal workers in the organised sector, and in some establishments which are considered to be part of the unorganised sector.<sup>1</sup> However, the major part of the unorganised sector which constitutes a pivotal part of the Indian economy covering about 84 per cent of workforce is left uncovered by a comprehensive social security system.

#### Unorganised Sector in India

As per the estimates of the NSSO 68<sup>th</sup> Round about 84 per cent of workers are in the 'unorganised' or 'informal' sector and more than 90 per cent in informal employment (taking formal and informal sectors together). As per NSS reports on Informal Sector and Conditions of Employment in India, 2011-12, about 97 per cent of the self-employed, 78 per cent of the casual labourers and 42 per cent of the regular wage/salaried employees in the rural areas were employed in the informal sector whereas about 98 per cent of the self-employed, 81 per cent of the casual labourers and 40 per cent of the regular wage/salaried employees in the urban areas were employed in the informal sector. The data reveals that among informal sector

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workers, about 75 per cent in rural areas and 70 per cent in urban areas were engaged in smaller enterprises. About 79 per cent of the employees in the agriculture and non-agriculture sectors had no written job contract about 42 per cent of the employees in the agriculture and non-agriculture sectors were temporary employees - the proportion was 60 per cent for casual labourers and 28 per cent for regular wage/salaried employees. About 72 per cent of the employees in the agriculture and non-agriculture sectors were not eligible for any social security benefit - the proportion was 93 per cent for casual labourers and 56 per cent for regular wage/salaried employees.<sup>2</sup> Defined broadly, unorganised sector workers are those who do not have contracted employment with a formal sector employer and are engaged as home-based, self-employed or wage workers.

A high proportion of socially and economically underprivileged sections of society are concentrated in the informal economic activities. The high levels of growth of the Indian economy during the past two decades is accompanied by increasing informalisation. There are indications of growing inter-linkages between informal and formal economic activities. There has been new dynamism of the informal economy in terms of output, employment and earnings. Faster and inclusive growth needs special attention to informal economy. Sustaining high levels of growth are also intertwined with improving domestic demand of those engaged in informal economy, and addressing the needs of the sector in terms of credit, skills, technology, marketing and infrastructure. Moreover, a large majority of workforce in this sector is devoid of any formal social security protection. There is a dearth of formal social security protection i.e. either a contribution based social insurance scheme or tax/cess based social security benefits. This is a major challenge to the existing social security systems that have evolved in the last century.

The workers in the organized sector which constitute about 7 per cent of



the total workforce are covered under various legislations providing social security to these workers. The major legislations providing social security to these workers are: the Employees' State Insurance Act, 1948 and the Employees Provident Fund & Miscellaneous Provisions Act, 1952 etc. These two legislations provide for medical and health insurance and provident fund and pension to the workers respectively. The workforce in the unorganised sector comprising about 472.9 million of the total workforce do not get adequate labour protection in terms of job security, wages, working conditions, social security and welfare due to various factors such as: casual and seasonal employment; scattered work place; poor working conditions; lack of employer-employment relationship; irregular and often long working hours; limited access to credit; lack of legal protection, social security and government support.

As the National Commission for Enterprises in the Unorganised Sector (NCEUS) argues, the unorganised sector workforce does not enjoy three types of social protection - employment security (no protection against arbitrary dismissal), work security (no protection against accident and health risks at the workplace) and social security (health benefits, pensions, and maternity benefits).<sup>3</sup> In the spirit of extending social security to the unorganised sector and keeping in mind long term demographic trends which indicate

a rapidly ageing population and a non-declining unorganised sector workforce, the Government of India passed the landmark Unorganised Workers' Social Security Act (UWSSA) in 2008. The purpose of the Act was to provide India's large unorganised sector workforce with a minimum level of social protection that would enable them to endure income and health related shocks, stay out of poverty, and ultimately allow them to lead dignified lives. Although the Act has been hailed as a rights-based document, implementing mechanisms and associated funding have hardly been provided for. The Act merely provides for constitution of national and state level social security boards that are basically advisory in character.

### Social Security for Unorganised Sector

At present the social security framework of the country has been operating at two levels. At the first level, there are the universal programmes and schemes for basic social/human development, such as the literacy mission, programmes for provision of schooling, healthcare services, drinking water and sanitation, and technical training, etc. At the second level are the social/human development schemes that are intended to provide socio-economic security to the vulnerable citizens, irrespective of their working status in order to

meet their promotional and protective needs such as ICDS, PDS, NSAP, MGNREGA, etc.<sup>4</sup>

Although there are several schemes and welfare programmes to address the deficiency related social security, yet as in most developing countries, social security measures to address adversity arising out of various contingencies such as absence of social security cover for ill-health, accidents/death and old age does not extend to the workers in the unorganised sector. The existing social security/welfare arrangement in India for meeting contingencies and eventualities (e.g. health, accidents, death and old age) with a legislative backing exist only for the workers in the formal sector. It is therefore pertinent that the workers in the unorganised sector are covered by social insurance only at the time of adversity. This is more so keeping in mind the fact that although the ratio of the poor has been declining, yet the fact remains that most of the poor work in the unorganised sector. Moreover, lack of social protection reduces productivity. Not only does lack of health reduce productivity of the workers due to illness, it also is an important cause of households incurring debt due to out-of-pocket expenses on illness.<sup>5</sup>

## Labour Reforms to motivate work force



- ◆ Minimum wage hiked by 42% in both agricultural and non-agricultural sectors
- ◆ Bonus eligibility cap increased from ₹ 10,000 to ₹ 21,000 per month
- ◆ Minimum pension of ₹ 1,000 to 28 Lakh Employee Provident Fund (EPF) pensioners with pension below ₹ 1,000
- ◆ Unique Account Number allotted to all members of EPFO; Withdrawal conditions from PF account relaxed

Therefore, inclusive growth cannot have much meaning without some minimum safety net for the workers in the unorganised sector.

Moreover, the current Social Security Administration in the country faces challenges of (a) multiplicity of policies, schemes and agencies, (b) poor coverage and outreach, (c) inadequate benefits, (d) fragmentation, (e) poor quality of implementation (and selection) (f) high costs and (g) exclusion of large sections particularly unorganised sector workers.

Keeping the above in mind, the Ministry of Labour and Employment in line with the recommendations of the 2nd National Commission on Labour, has taken steps for simplification, amalgamation and rationalization of Central Labour Laws on social security and replacing them with a Code on Social Security and Welfare by amalgamating all existing Labour Laws related to Social Security (total 15 Labour Laws including EPF Act, ESI Act, Maternity Benefit Act, Payment of Gratuity Act, Employees Compensation Act, Unorganised Social Security Act, and various Welfare Cess /Fund Acts).

The Code proposes a three tier Social Security Administration Structure with tripartite representation- (a) National Social Security Council headed by the Prime Minister (b) Central Board of Social Security at Union level and (c) State Board(s) of Social Security at State/UT level for implementation of the Social Security framework. Local bodies (panchayats/ urban local bodies) assigned the functions of registrations and facilitation which may be called fourth layer too. There would be an Unique Aadhaar Based Registration system for all workers (Compulsory registration) and a Portable Social Security Account i.e. *Vishwakkarma Karmik Suraksha Khata* (VIKAS)

would be opened for all workers on registration which shall be linked to the Aadhaar number of the worker and shall take care of the contribution transfer and benefit entitlement in case the worker migrates from one state to the other. This new social security paradigm would not only be a goodwill gesture or appeasement to the citizen but a right for all workers of the country<sup>6</sup>.

### Endnotes

- 1 Srivastava, R. S., A Social Protection Floor for India (ILO, 2013) xiv.
- 2 National Sample Survey Organisation (NSSO), 2012 Employment and Unemployment Round, 68th Round, New Delhi: Government of India
- 3 National Commission for Enterprises in the Unorganised Sector (NCEUS), 2008. Conditions of work in the Unorganised Sector. New Delhi: Government of India.
- 4 Report on Social Security for Unorganized Workers: Summary and Recommendations, Indian Journal of Human Development, Vol. 1, No. 1, 2007
- 5 Mehrotra, S. Realising the Demographic Dividend, Cambridge University Press, 2016.
- 6 <http://labour.gov.in/whatsnew/draft-labour-code-social-security-welfare>

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- Draft Labour Code on Social Security and Welfare, <http://labour.gov.in/whatsnew/draft-labour-code-social-security-welfare>
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