

8.1 The term unorganized worker has been defined under the Unorganized Workers' Social Security Act, 2008, as a home based worker, self-employed worker or a wage worker in the unorganized sector and includes a worker in the organized sector who is not covered by any of the Acts mentioned in Schedule-II of Act i.e. the Employee's Compensation Act, 1923 (3 of 1923), the Industrial Disputes Act, 1947 (14 of 1947), the Employees' State Insurance Act, 1948 (34 of 1948), the Employees Provident Funds and Miscellaneous Provision Act, 1952 (19 of 1952), the Maternity Benefit Act, 1961 (53 of 1961) and the Payment of Gratuity Act, 1972 (39 of 1972).

8.2 As per the survey carried out by the National Sample Survey Organization in the year 2011-12, the total employment in both organized and unorganized sector in the country was of the order of 47 crore. Out of this, about 8 crore were in the organized sector and the balance of 39 crore in the unorganized sector. The workers in the unorganized sector constitute more than 90 percent of the total employment in the country. A large number of unorganized workers are home based and are engaged in occupations such as beedi rolling, agarbatti making, papad making, tailoring, and embroidery work.

8.3 The unorganized workers suffer from cycles of excessive seasonality of employment, lack of formal employer-employee relationship and absence of social security protection. Several legislations such as the Employee's Compensation Act, 1923; the Minimum Wages Act, 1948; the Maternity Benefit Act, 1961; the Contract Labour (Abolition and Prohibition) Act, 1970; Building and Other Construction Workers (Regulation of Employment & Conditions of Service) Act, 1996; and the Building and Other

Construction Workers Welfare (Cess) Act, 1996 etc. are directly or indirectly applicable to the workers in the unorganized sector also.

8.4 The Ministry of Labour is also operating Welfare Funds for some specific categories of workers in the unorganized sector like beedi workers, cine workers and certain non-coalmine workers. The funds are used to provide various kinds of welfare activities to the workers in the field of health care, housing, education assistance for children, water supply etc.

Comprehensive Legislation for Workers in the Unorganized Sector

8.5 In order to ensure welfare of workers in the unorganized sector, the Ministry of Labour & Employment has enacted the Unorganized Workers' Social Security Act, 2008. The Act has come into force with effect from 16.05.2009. The Central Rules under the Act have been framed.

8.6 The Salient features of the Act are as under:

- Section (2) provides for the definitions, including those relating to unorganised worker, self-employed and wage worker.
- Section 3(1) provides for formulation of schemes by the Central Government for different sections of unorganised 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 for formulation of schemes relating to provident fund, employment injury benefits, housing, educational schemes for children, skill up

gradation, funeral assistance and old age homes by the State Governments.

- Section 4 relates to funding of the schemes formulated by Central Government.
- Section 5 envisages constitution of National Social Security Board under the chairmanship of Union Minister for Labour & Employment with Director General (Labour Welfare) as Member Secretary and 34 nominated members representing Members of Parliament, unorganised workers, employers of unorganised workers, civil society, Central Ministries and State Governments.
- Provision for adequate representation to persons belonging to the Scheduled Castes, the Scheduled Tribes, the Minorities and Women in the Board has been made.
- The National Board would recommend the Central Government suitable schemes for different sections of unorganised workers; monitor 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 Workers' Facilitation Centre to (a) disseminate information on social security schemes

available to them(b) facilitate registration of workers by the district administration and enrollment of unorganised workers.

- Section 10 provides for eligibility criteria for registration as also the procedure for registration under the Act.
- Sections 11-17 contain miscellaneous provisions for implementing the Act.

8.7 The Unorganised Workers' Social Security Rules, 2009 under the Act have been framed and the National Social Security Board was constituted on 18.08.2009. The National Board shall recommend social security schemes viz. life and disability cover, health and maternity benefits, old age protection and any other benefit as may be determined by the Government for unorganized workers. The National Board has held eight meetings so far and recommended extension of Rashtriya Swasthya Bima Yojana (RSBY), Janshree Bima Yojana (JBY) and Old Age pension to certain categories of unorganized workers.

8.8 Apart from the above, a Health Insurance Scheme namely, the 'Rashtriya Swasthya Bima Yojana for BPL families (a unit of five) in Unorganized Sector was formally launched on October, 2007. The scheme became operational from 1st April, 2008 and benefits under the scheme started accruing to the beneficiaries. The benefits under the scheme include:

- Beneficiaries are entitled to smart card based cash less health insurance cover of Rs. 30,000 per family per annum on a family floater basis.
- Coverage of all pre-existing diseases.
- Coverage of hospitalization expenses, including maternity benefit.
- Payment of transportation cost of Rs. 100/-per visit.

8.9 Till 31.03.2015, the RSBY is being implemented in 28 States/UTs and 3.85 crore smart cards have been issued. RSBY has been extended to building and other construction workers registered under the Building and other Construction Workers (Regulation of Employment and Condition of Service) Act, 1996 and street vendors, beedi workers, domestic workers and MGNREGA beneficiaries who have worked for more than 15 days during the preceding financial year and domestic workers. From 01.04.2015 onwards, this Rashtriya Swasthya Bima Yojana has been transferred to Ministry of Health and Family Welfare.

8.10 With a view to providing death and disability cover to rural landless households between age 18-59 years, the Aam Aadmi Bima Yojana has also been launched on 2nd October, 2007. Under this scheme, the head of the family or any earning member in the family will be insured. The Central Government will bear 50% of the premium of Rs.200/- per year per person and the remaining 50% of the premium will be borne by State Government. The benefits under the scheme include a cover of Rs.30,000 in case of natural death and Rs.75,000 in case of death due to accident or total permanent disability (lost to two eyes or two limbs or loss of one eye and one limb in accident). In case of partial permanent disability (loss of one eye or one limb in an accident), the insurance cover would be Rs.37,500/-. The Scheme also envisages an add-on benefit of providing scholarship upto a maximum of two children of beneficiary studying 9th to 12th Standard at the rate of Rs.300/- per quarter per child. More than 4.32 crore lives were covered under AABY as on 31.03.2015.

8.11 The Government of India has recast the National Old Age Pension Scheme. The new Scheme "Indira Gandhi National Old Age Pension Scheme (IGNOAPS)" was launched on 19.11.2007. Old age pension is now provided not

only to aged destitute but to all citizens above the age of 60 years and living below the poverty line. For persons above the age of 80 years the amount has been raised from Rs.200/- to Rs.500/- per month. The States have been asked to top up with the Central Government per capita grant of Rs.200/- per month. More than 2.18 crore persons have been covered upto 31.03.2015.

8.12 To encourage the workers from the unorganized sectors to voluntarily save for their retirement and to lower the cost of operations of the New Pension Scheme (NPS) for such subscribers, the Central Government recently launched a co-contributory pension scheme called "Atal Pension Yojana" on 09.05.2015. The Subscribers would receive a fixed minimum pension of Rs. 1000 per month, Rs. 2000 per month, Rs. 3000 per month, Rs. 4000 per month, Rs. 5000 per month, at the age of 60 years, depending on their contributions, which itself would vary on the age of joining the APY. The Central Government would also co-contribute 50 percent of the total contribution or Rs. 1000 per annum, whichever is lower, to each eligible subscriber account, for a period of 5 years, that is, from 2015-16 to 2019-20, to those who join the NPS before 31st December, 2015 and who are not members of any statutory social security scheme and who are not Income Tax payers. The pension would also be available to the spouse on the death of the subscriber and thereafter, the pension corpus would be returned to the nominee. The minimum age of joining APY is 18 years and maximum age is 40 years. The benefit of fixed minimum pension would be guaranteed by the Government.

8.13 In India approximately 93% of workers are in the unorganized sector. The various social security schemes are currently being run by different Ministries/ Departments under Schedule II of the "Unorganized Workers Social Security Act (UWSSA), 2008" for welfare of the unorganized workers and agencies at the State level, with

different eligibility criteria, enrolment processes and benefits there under, etc.

The Building and Other Construction Workers

8.14 The construction workers constitute one of the largest categories of workers in the unorganized sector. According to the Sample Survey conducted by NSSO in 2011-12, about 5.02 crore workers are employed in the construction activities. The Government has enacted the following two legislations for the construction workers: -

- **The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996.**
- **The Building and Other Construction Workers' Welfare Cess, Act, 1996;**

8.15 Further, the Building and Other Construction Workers (RECS) Central Rules, 1998 have been notified on 19.11.1998.

8.16 The Act is applicable to every establishment which employs 10 or more workers in any building or other construction work. The Act does not apply to individual. There is also provision of constitution of Central and the State Advisory Committees to advise the appropriate Governments on matters arising out of administration of the law besides constitution of Welfare Boards by the State Governments and registration of beneficiaries under the Fund and provision for their identity cards etc.

8.17 These legislations provide for regulating the employment and conditions of service, safety and health and welfare measures for the construction workers by setting up a Welfare Fund at the State level to be financed by contribution made by beneficiaries, levy of cess on all construction works at rates between 1 to 2% of the construction cost

incurred by an employer (the Government has notified the cess @ 1%). The Fund is to be used for providing financial assistance to the families of beneficiaries in case of accident, old age pension, housing loans, payment of insurance premia, children's education, medical and maternity benefits, etc.

8.18 All State Governments and Union Territories have constituted State Welfare Boards. The Government of Tamil Nadu has been implementing its own Act. Till 30.09.2015, an amount of Rs.21985.07 crore approximately has been collected as Cess by the State Governments and Union Territories and an amount of Rs.4162.99 crore has been spent on welfare schemes formulated by them.

Migrant Workers and the Inter-State Migrant Workmen

8.19 According to the 2001 Census, 314.54 million persons have changed their place of residence within the country and out of this, 29.90 million or 9% have left their place for work. The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 was enacted to protect the rights and safeguard the interests, of migrant workers.

8.20 The Act regulates the employment of inter-state migrant workmen and provides for their conditions of service. It applies to every establishment, and the contractor, who employ five or more inter-state migrant workmen. The Act has provision for issue of Pass-Book to every inter-state migrant workmen with full details, payment of displacement allowance equivalent to 50% of monthly wages or Rs.75/- which ever is higher, payment of journey allowance including payment of wage during of the period of journey, suitable residential accommodation, medical facilities and protective clothing, payment of wages, equal pay for equal work etc.

8.21 The main responsibility for enforcement of

the provision of the Act lies with the Central and the State Governments / Union Territories for the establishment falling in the Central and State Sphere respectively.

8.22 The problem of migration is sought to be checked through a multi dimensional course of action through rural development, provision of improved infrastructural facilities, equitable dispersal of resources to remove regional disparities, employment generation, land reforms, increased literacy, financial assistance etc. In order to generate better employment opportunities at State level, the Government have launched a number of schemes like Swarnjayanti Gram Swarozgar Yojna (SGSY), Pradhan Mantri Gram Sadak Yojana (PMGSY), Sampoorna Gramin Rozgar Yojana (SGRY), National Food For Work

Programme (NFFWP), Indira Awas Yojna (IAY), Integrated Wastelands Development Programme (IWDP), Drought Prone Areas Programme (DPAP), Desert Development Programme (DDP) etc. Further, the Government have also enacted the National Rural Employment Guarantee Act to provide 100 days guaranteed employment to rural households.

8.23 Ministry of Labour & Employment and State Governments of Andhra Pradesh and Odisha have signed an MoU in June 2012 to facilitate strengthening of Inter-State Coordination Mechanism for smooth implementation of the activities in source and destination areas of migrant workers. Similar MoU have been among the State Governments of Uttar Pradesh, Bihar, Jharkhand and Chhattisgarh in February, 2013.

