

SUBREGIONAL OFFICE FOR
SOUTH ASIA, NEW DELHI



EXTENSION OF SOCIAL PROTECTION
IN INDIA

- INFORMATION PAPERS SERIES -

THE UNORGANIZED
SECTOR WORKERS'
SOCIAL SECURITY BILL,
2007

September 2007

INTRODUCTION

The National Common Minimum Programme (NCMP) of the United Progressive Alliance (UPA) which was formed after the general elections in April/May 2004 was announced on 27 May 2004. It set out the major policy orientations adopted in order to enhance sustainable development in India. In the spirit of the Alliance, it referred in its preamble to the welfare of farmers, agricultural workers and weaker sections of the society and strongly stated a commitment to ensure, through social security, health insurance and other schemes the welfare and well-being of all workers, particularly in the unorganized sector who now constitutes 94% of the labour force. To follow up this commitment, the Government established a National Commission to examine the major problems facing the various enterprises operating in the informal economy.

In August 2005, the National Commission published an ambitious plan (The Unorganized Sector Workers Social Security Draft Bill) aiming to provide a minimum level of social protection benefits to some 300 million informal economy workers. This proposal could be viewed as paving the way towards a nation-wide social security system based on the national solidarity principle. Almost one year later, in May 2006, the Commission released its report on Social Security for unorganized workers which included a revised version of this Bill

The proposed Bill had the following key features (See ILO Information Paper – May 2006):

- The objective was to cover in a phased manner and over a five-year period 300 million unorganized workers (both wage earners and self-employed workers) earning less than Rs 6,500 per month
- The following main contingencies were to be covered: medical care, sickness benefits, maternity protection, survivors' benefits, disability and old-age pension
- Contributions were set at Re 1 per day from each worker, employer and Government (Rs 3 per day – Rs 1,095 per year)
- There would be no contribution to be paid for BPL workers – his/her contribution would be paid by the Central Government
- A specific level of benefit was recommended for each contingency (for instance, under medical care: Rs 15,000 to cover hospitalization expenses of a family of five)
- The implementation machinery would associate at all levels, representatives from the Government, trade unions, employers' organizations, local government and civil society organizations

The detailed report submitted to the Government resulted already from a broad consultative process developed over two years by the national Commission. The document included in annexes the major comments provided by trade unions, employers' organizations, academicians, civil society organizations, etc. Regular interactions were also organized with the World Bank and the ILO which provided information referring both to social security extension experiences in India and in other Asian countries.

Upon submission of its report, the National commission choose to intensify the social dialogue it had already initiated in order to share and clarify its recommendations with all concerned parties and to better reflect their views in its subsequent work. As a result of this extensive consultation process, the 2006 version of the Bill evolved over time with new drafts being prepared both by the National Commission and the Ministry of Labour and Employment.

On September 10th, 2007, the Ministry of Labour and Employment introduced into the Parliament, a new version of the Unorganized Sector Workers' Social Security Bill, with the following main features:

- The objective was now to cover in a phased manner and over a five-year period 60 million Below Poverty Line workers (and their families);
- The following main contingencies were to be covered: medical care, survivors' benefits, disability and old-age pension:
- Contributions and benefits were not defined any more;
- The responsibility to design appropriate health insurance schemes was transferred to the State Governments;
- National and State Advisory Boards were to be set up to recommend from time to time additional welfare measures and schemes.

UNORGANIZED SECTOR WORKERS' SOCIAL SECURITY BILL, 2007

A BILL

To provide for the social security and welfare of unorganized sector workers and for other matters connected therewith or incidental thereto.

Be it enacted by Parliament in the fifty-eight year of the Republic of India as follows:

CHAPTER I PRELIMINARY

Short Title, Extent and Commencement

1. (1) This Act may be called Unorganized Sector Workers' Social Security Bill, 2007
(2) It extends to the whole of India;
(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions

2. In this Act, unless the context otherwise requires:
 - a) "employer" means a person or an association of persons, who has engaged or employed an unorganized sector worker either directly or otherwise for remuneration;
 - b) "home-based worker" means a person engaged in the production of goods or services for an employer in his or her home or other premises of his or her choice other than the workplace of the employer, for remuneration, irrespective of whether or not the employer provides the equipment, materials or other inputs;
 - c) "identity card" means a card, document or certificate issued to an unorganized sector worker by the District Administration under sub-section (3) of section 9 of this Act;
 - d) "National Board" means the National Social Security Advisory Board for unorganized sector workers constituted under sub-section (1) of section 5 of this Act;
 - e) "notification" means a notification published in the Official Gazette;
 - f) "prescribed" means prescribed by rules made under this Act by the Central Government or the State government, as the case may be;
 - g) "registered worker" means an unorganized sector worker registered under sub-section (3) of section 9;
 - h) "Schedule" means the Schedule annexed to the Act;
 - i) "State Board" means the (name of the State) State Social Security Advisory Board for unorganized sector workers constituted under sub-section (1) of section 6 of this Act;
 - j) "self-employed worker" means any person who is not employed by an employer, but engages himself or herself in any occupation in the unorganized sector subject to a monthly earning of an amount as may be notified by the Central Government or the State Government from time to time or holds cultivable land subject to such ceiling as may be notified by the State Government;
 - k) "unorganized sector" means an enterprise owned by individuals or self-employed workers and engaged in the production or sale of goods or providing services of any kind whatsoever, and where the enterprise employs workers, the number of such workers is less than ten;
 - l) "unorganized sector worker" means a home based worker, self employed worker or a wage worker in the unorganized sector;
 - m) "wage worker" means a person employed for remuneration in the unorganized sector, directly by an employer or through any

contractor, irrespective of place or work, whether exclusively for one employer or for one or more employers, whether in cash or in kind, whether as a home-based worker, or as a temporary or casual worker, or as a migrant worker, or workers employed by households including domestic workers, with a monthly wage of an amount to be notified by the Central Government and State Government, as the case may be;

CHAPTER II SOCIAL SECURITY BENEFITS

Framing of Schemes

3. (1) The Central Government may formulate, from time to time, suitable welfare schemes for different sections or unorganized sector workers on matters relating to:

- a) Life and disability cover;
- b) Health and maternity benefits;
- c) Old age protection; and
- d) Any other benefit as may be determined by the Central Government.

(2) The schemes included in the Schedule to this Act shall be deemed to be the welfare schemes under sub-section (1) of this Act,

(3) The Central Government may, by notification, amend the Schedule referred to in sub-section (1), and include therein or exclude therefrom any welfare scheme for the unorganized sector workers.

(4) The State Government may formulate and notify, from time to time, suitable welfare schemes for different sections of unorganized sector workers, including schemes relating to:

- 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.

Funding of Central Government Schemes

4. (1) Any scheme notified by the Central Government may be:

- I. Wholly funded by the Central Government;
- II. Partly funded by the Central Government and partly funded by the State Government; or
- III. Partly funded by the Central Government, partly funded by the State Government and partly funded through contributions collected from the beneficiaries of the scheme or the employers as may be prescribed in the scheme by the Central Government

(2) Every scheme notified by the Central Government shall provide for such matters that are necessary for the efficient implementation of the scheme including the matters relating to:

- I. Scope of the scheme;
- II. Beneficiaries of the scheme;
- III. Resources of the scheme;
- IV. Agency or agencies that will implement the scheme; and
- V. Any other relevant matter.

CHAPTER III NATIONAL SOCIAL SECURITY ADVISORY BOARD FOR WORKERS IN THE UNORGANIZED SECTOR

National Social Security Advisory Board

5. (1) The Central Government shall, by notification, constitute a National Board to be known as the National Social Security Advisory Board to exercise the powers conferred on, and to perform the functions assigned to it under this Act.
- (2) The National Board shall consist of the following members, namely:
- a) A Chairperson to be appointed by the Central Government;
 - b) The Director General (Labour Welfare) – Member Secretary – ex officio;
 - c) Thirty one members to be nominated by the Central Government, out of whom:
 - I. Seven representing unorganized sector workers;
 - II. Seven representing employers of unorganized sector;
 - III. Seven representing eminent persons of civil society;
 - IV. Five representing State Governments; and
 - V. Five representing Central Government Ministries and Departments concerned.
- (3) The Chairperson and other members of the Board shall be from amongst persons of eminence in the fields of labour welfare, management, finance, law and administration.
- (4) The number of persons to be nominated as members from each of the categories specified in clause (c) of sub-section (2), the term of office and other conditions of service of, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among the members of the National Board shall be such as may be prescribed:
- Provided that adequate representation shall be given to persons belonging to the Scheduled Castes, the Scheduled Tribes, the Minorities and Women.
- (5) The term of the National Board shall be three years.
- (6) The National Board shall meet at least thrice a year, at such time and place and shall observe such rules of procedure relating to the transaction of business at its meetings, as may be prescribed.
- (7) The members may receive such allowances as may be prescribed for attending the meetings of the National Board.
- (8) The National Board shall perform the following functions, namely:
- a) Recommend to the Central government suitable schemes for different sections of unorganized sector workers;
 - b) Advise the Central Government on such matters arising out of the administration of this Act as may be referred to it;
 - c) Monitor such social welfare schemes for workers in the

unorganized sector as are administered by the Central Government;

- d) Review the progress of registration and issue of identity cards to the unorganized sector workers;
- e) Review the record keeping functions performed at the State level;
- f) Review the expenditure from the funds under various schemes;
- g) Undertake such other functions as are assigned to it by the Central Government from time to time.

CHAPTER IV STATE SOCIAL SECURITY ADVISORY BOARD FOR WORKERS IN THE UNORGANIZED SECTOR

State Social Security Advisory Board

6. (1) Every State Government shall, by notification, constitute a State Board to be known as(name of the State) State Social Security Advisory Board to exercise the powers conferred on, and to perform the functions assigned to it under this Act.

(2) The State Board shall consist of the following members, namely:

- d) A Chairperson to be appointed by the State Government;
- e) The Principal Secretary or Secretary (Labour) – Member Secretary – ex officio;
- f) Twenty-six one members to be nominated by the State Government, out of whom:
 - I. Seven representing unorganized sector workers;
 - II. Seven representing employers of unorganized sector;
 - III. Five representing eminent persons from civil society; and
 - IV. Seven representing State Government Departments concerned.

(3) The Chairperson and other members of the Board shall be from amongst persons of eminence in the fields of labour welfare, management, finance, law and administration.

(4) The number of persons to be nominated as members from each of the categories specified in clause (c) of sub-section (2), the term of office and other conditions of service of, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among the members of the State Board shall be such as may be prescribed:

Provided that adequate representation shall be given to persons belonging to the Scheduled Castes, the Scheduled Tribes, the Minorities and Women.

(5) The term of the State Board shall be three years.

(6) The State Board shall meet at least once in a quarter at such time and place and shall observe such rules of procedure relating to the transaction of business at its meetings, as may be prescribed.

(7) The members may receive such allowances as may be prescribed for attending the meetings of the National Board.

(8) The State Board shall perform the following functions, namely:

- a) Recommend the State government in formulating suitable schemes for different sections of unorganized sector workers;
- b) Advise the State Government on such matters arising out of the administration of this Act as may be referred to it;
- c) Monitor such social welfare schemes for workers in the unorganized sector as are administered by the State Government;
- d) Review the record keeping functions performed at the District level;
- e) Review the progress of registration and issue of cards to unorganized sector workers;
- f) Review the expenditure from the funds under various schemes;
- g) Undertake such other functions as are assigned to it by the State Government from time to time.

Funding of State Government Schemes

7. (1) Any scheme notified by the State Government may be:
- i. Wholly funded by the State Government, or
 - ii. Partly funded by the State Government, partly funded through contributions collected from the beneficiaries of the scheme or the employers as may be prescribed in the scheme by the State Government

(2) The State Government may seek financial assistance from the Central Government for the schemes formulated by it;

(3) The Central Government may provide such financial assistance to the State Governments for the purpose of schemes for such period and on such terms and conditions as it may deem fit.

Record Keeping by District Administration

8. The record keeping functions for the purpose of this Act shall be performed by the District Administration:

Provided that the State Government may direct that the record keeping function shall be performed by:

- a) The District Panchayat in rural areas; and
- b) The urban Local Bodies in urban areas.

CHAPTER V REGISTRATION

Eligibility for Registration and Social Security Benefits

9. (1) Every unorganized sector worker shall be eligible for registration subject to the fulfilment of the following conditions, namely:

- a) He or she shall have completed fourteen years of age;
- b) A self-declaration by him or her confirming that he or she is an unorganized sector worker.

(2) Every eligible unorganized sector workers shall make an application in the prescribed form to the District Administration for registration.

(3) Every unorganized sector worker shall be registered and issued an identity card by the District Administration which shall be a smart card carrying a unique identification number and shall be portable.

(4) If a scheme requires a registered unorganized sector worker to make a contribution, he or she shall be eligible for social security benefits under the scheme only upon payment of such contribution.

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

CHAPTER VI MISCELLANEOUS

Power of Central Government to Give Directions

10. The Central Government may give directions to:

- i. The National Board; or
- ii. Government of a State or the State Board of that State, in respect of matters relating to the implementation of the provisions of this Act.

Vacancies, etc. not to Invalidate Proceedings

11. No proceedings of the National Board or any State Board shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the National Board or, as the case may be, the State Board,

Power to Make Rules by Central Government

12. (1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

- a) The contributions to be collected from the beneficiaries of the scheme or the employers under sub-section (1) of section 4;
- b) The number of persons to be nominated, the term of office and other conditions of service of members, the procedure to be followed in the discharge of functions by, and the manner of filling vacancies of, the National Board under sub-section (4) of section 5;
- c) The rules of procedure relating to the transaction of the business at the meeting of the National Board under sub-section (6) of section 5;
- d) The allowances for attending the meetings of the National Board under sub-section (7) of section 5;
- e) The form for making an application for registration under sub-section (2) of section 9; and
- f) Any other matter which is required to be, or may be, prescribed.

Power to Make Rules by State Government

13. (1) The State Government may, by notification, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

- a) The number of persons to be nominated, the term of office and other conditions of service of members, the procedure to be followed in the discharge of functions by, and the manner of filling vacancies of, the State Board under the sub-section (4) of section 6;

- b) The rules of procedure relating to the transaction of business at the meetings of the State Board under sub-section (6) of section 6;
- c) The allowances for attending the meetings of the State Board under sub-section (7) of section 6;
- d) The contributions to be collected from the beneficiaries of the scheme or the employers under sub-section (1) of section 7; and
- e) Any other matter which is required to be, or may be, prescribed.

Laying of Rules

- 14.** (1) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(2) Every rule made under this Act by State Government shall be laid, as soon as may be after it is notified, before the State Legislature.

Saving of Certain Laws

- 15.** Nothing contained in this Act shall affect the operations of any corresponding law in a State providing welfare schemes which are more beneficial to the unorganized sector workers than those provided for them by or under this Act.

Power to Remove Difficulties

- 16.** (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as may appear to it to be necessary for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

SCHEDULE
Social Security Schemes for the Unorganized Sector Workers
(See section 3)

1.	National Old Age Pension Scheme ⁱ
2.	National Family Benefit Scheme ⁱⁱ
3.	National Maternity Benefit Scheme ⁱⁱⁱ
4.	Mahatma Gandhi Bunkar Bima Yojana ^{iv}
5.	Health Insurance Scheme for Handloom Weavers ^v
6.	Scheme for Pension to Master Crafts Person ^{vi}
7.	Group Accident Insurance Scheme for Active Fishermen ^{vii}
8.	Saving-cum-Relief for the Fishermen ^{viii}
9.	Janashree Bima Yojana ^{ix}
10.	Aam Admi Bima Yojana ^x
11.	Swasthya Bima Yojana

ⁱ Administered by the Ministry of Rural Development, the National Old Age Pension Scheme (NSOAP) provided a flat Rs 75 per month to destitutes above 65 years. In his Budget Speech for the year 2006-07, the Minister of Finance decided to increase the pension to Rs 200 per month, and urged the State Governments to make an equal contribution from their resources so that a pensioner would get at least Rs 400 per month. The States of Tamil Nadu, Uttarakhand, West Bengal and Rajasthan as well as the Union Territories of Andaman and Nicobar Islands and Pondichery have already started distributing Rs 400 per month or above to NSOAPS pensioners. In the year 2006-07, the total number of pensioners was reported to be 8.6 million.

ⁱⁱ Also administered by the Ministry of Rural Development, the National Family Benefit Scheme (NFBS) provides a grant of Rs 5,000 in case of death to natural causes and Rs 10,000 in case of accidental death of the “primary breadwinner” of a family. In 2006-07, the total number of families having received this benefit amounted to 171,000, a sharp decrease from the previous 272,000 level.

ⁱⁱⁱ On April 1, 2001, the administration of the National Maternity Benefit Scheme (NMBS) was transferred to Department of Family Welfare. The scheme provides a cash benefit of Rs 300 per pregnancy up to the first two live births to women belonging to the Below Poverty Line group.

^{iv} Launched in 2005-06 by the Ministry of Textiles, the Mahatma Gandhi Bunkar Bima Yojana (MGBBY) is a life and disability insurance scheme administered by the Life Insurance Corporation (LIC) of India. It provides the following benefits to the weavers between the age group of 18 and 59 years: Rs 80,000 in case of death due to accident, Rs 50,000 in case of natural death, Rs 50,000 in case of total permanent disability and Rs 25,000 in case of partial permanent disability. The premium amounting to Rs 330 is shared between Government of India (Rs 150), LIC (Rs 100 – out of the Social Security Fund set up by the Ministry of Finance) and the policyholder (Rs 80). As an additional benefit, the scheme also provides scholarship benefit to two children (Rs 300 per quarter per child studying in standard IX to XII for a maximum of four years).

^v The Health Insurance Scheme (HIS) for handloom weavers was launched in 2005-06 by the Ministry of Textiles in collaboration with ICICI Lombard Insurance Company. The scheme covers hospitalization expenses up to Rs 15,000 for an individual of which the OPD cover is Rs. 7,500. Set at Rs 1,000 per year, the premium is shared by the Government of India (Rs 800) and the policyholder (Rs 200). In 2007, the scheme was covering 1.8 million.

^{vi} The Scheme for Pension to Master Crafts Persons is in operation since 1973-1974. It provides a pension to Mastercrafts-persons unable to work due to old age. In 2001-02, 201 persons under the above pension scheme were availing a pension of Rs 1,000 per month and 18 new beneficiaries have been sanctioned pension till December 2001.

^{vii} The Group Accident Insurance for Active Fishermen is provided through the Fishermen Co-operative Federation in collaboration with a public sector general insurance company. The scheme provides Rs 50,000 in case of accidental death or permanent total disability and Rs 25,000 for partial permanent disability. The annual premium payable cannot exceed Rs 15 per individual, and is to be co-shared by the Central and State Government.

^{viii} Under the Saving-cum Relief component, Rs 75 per person is collected for a period of 8 months in a year. A total of Rs 600 thus collected is matched with 50% contribution i.e Rs 300, each by the State Government and the Central Government separately. The total sum of Rs 1,200 will be distributed during the four lean months.

^{ix} The Janashree Bima Yojana scheme was launched in August 2000 and is implemented by LIC (see ILO/ISEC study: Showing the Way Forward: India’s Redistribution Experience in Extending Social protection to All).

^x The Aam Admi Bima Yojana scheme is planned to be launched in October 2007. Administered by LIC, it plans to cover 10 million poor during its first year of operation.