

Legislative Brief

The Unorganised Sector Workers' Social Security Bill, 2007

The Bill was introduced in the Rajya Sabha on 10th September, 2007 and was referred to the Standing Committee on Labour (Chairperson: Shri S. Sudhakar Reddy).

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Highlights of the Bill

- ◆ The Unorganised Sector Workers' Social Security Bill, 2007 provides for an enabling framework for welfare schemes targeting unorganised sector workers.
- ◆ The central government may formulate welfare schemes for different sections of unorganised sector workers regarding life and disability cover, health and maternity benefits, old age protection, and any other benefit decided by the government.
- ◆ The state government may formulate welfare schemes related to the provident fund, employment injury benefits, housing, educational schemes for children, skill upgradation of workers, funeral assistance, and old age homes.
- ◆ This Bill establishes boards at the central and state levels to advise and help in formulating, implementing and monitoring social welfare schemes for unorganised sector workers.
- ◆ Every unorganised sector worker shall be registered by the district administration and issued a portable smart card carrying a unique identification number.

Key Issues and Analysis

- ◆ The National Commission for Enterprises in the Unorganised Sector (NCEUS) recommended two separate Bills for agricultural workers and unorganised non-agricultural workers. This Bill does not differentiate between agricultural and non-agricultural workers.
- ◆ The two NCEUS draft Bills included both conditions of work and social security benefits. This Bill does not address conditions of work.
- ◆ In order to register as an unorganised worker, an individual must be 14 years of age and declare himself an unorganised worker. There is no process to verify such declaration.
- ◆ The Bill does not specify any time limit within which the district administration must issue an identity card.
- ◆ Whereas the Bill sets a salary limit to define a self-employed worker and a wage worker, there is no such salary limit in the definition of a home-based worker.

PART A: HIGHLIGHTS OF THE BILL¹

Context

In India, existing social security schemes primarily cover the organised sector, i.e., government servants and the private sector under the Employees' Provident Fund and New Pension Scheme. The Bill estimates that workers in the unorganised sector constitute more than 94% of the total employment in the country. Certain welfare programmes already exist at the state and central levels. The centrally-sponsored National Old Age Pension Scheme, for example, provides Rs 200 per month to all persons of 65 years and above living below the poverty line.² About 0.4 per cent of unorganised sector workers receive social security benefits like Provident Fund.³ The government set up the National Commission for Enterprises in the Unorganised Sector (NCEUS) to study the status of workers in the unorganised sector. The commission made a number of recommendations to address the social security and minimum conditions of work for both agricultural and non-agricultural workers in the unorganised sector and suggested two Bills – one for each sector.

This Bill provides an enabling framework for welfare schemes targeting unorganised sector workers. It establishes boards at the central and state levels to advise and help in formulating, implementing and monitoring social security schemes. It also establishes a registration system to provide unorganised sector workers with portable identification cards.

Key Features

Enabling Framework for Social Security Schemes

- The Bill enables the central government to formulate welfare schemes for unorganised sector workers regarding (i) life and disability cover; (ii) health and maternity benefits; (iii) old age protection; and (iv) any other benefit decided by the government. Eleven existing social security schemes for the unorganised sector workers are listed in this Bill.* The central government may modify this list by notification. The Bill also enables state governments to formulate welfare schemes related to (i) the provident fund; (ii) employment injury benefits; (iii) housing; (iv) educational schemes for children; (v) skill upgradation of workers; (vi) funeral assistance; and (vii) old age homes.
- Any notified scheme may be wholly funded by the central or state government or both, and could require contributions by the beneficiaries of the schemes or their employers.
- Welfare schemes introduced under this Bill will not affect existing welfare schemes of any state that may be more beneficial to unorganised sector workers.

Creation of State and National Social Security Advisory Boards

- The Bill establishes a national level Social Security Advisory Board to: (a) recommend 'suitable' welfare schemes for different sections of unorganised sector workers; (b) advise the central government on the implementation of this Bill; (c) monitor relevant centrally administered welfare schemes; and (d) review state level record keeping functions and expenditures under various schemes. The national board will consist of an appointed chairperson, a member secretary, and 31 nominated members.
- The Bill also establishes state level Social Security Advisory Boards. The state boards will have similar functions as the central board at the relevant state and district levels. Each state board will consist of an appointed chairperson, a member secretary, and 26 nominated members.

Registration and Smart Cards for Unorganised Sector Workers

- Unorganised workers must apply for registration with the district administration. An individual must be 14 years or older and should declare that he is an unorganised sector worker. Upon registration, the district administration will issue a portable smart card carrying a unique identification number.
- If a scheme requires contribution from the registered unorganised worker, he will be eligible for social security benefits under that scheme only if he has made the required contribution.

* (a) National Old Age Pension Scheme; (b) National Family Benefit Scheme; (c) National Maternity Benefit Scheme; (d) Mahatma Gandhi Bunkar Bima Yojana; (e) Health Insurance Scheme for Handloom Weaver; (f) Scheme for pension to Master Crafts persons; (g) Group Accident Insurance Scheme for Active fishermen; (h) Saving-cum-Relief for the fishermen; (i) Janshree Bima Yojana; (j) Aam Admi Bima Yojana; (k) Swasthya Bima Yojana.

PART B: KEY ISSUES AND ANALYSIS

Separate Legislation for Agricultural and Non-agricultural Workers

The NCEUS proposed two separate draft Bills regarding the conditions of work and social security for the unorganised sector. In its Report on Conditions of Work and Promotion of Livelihoods in the Unorganised Sector, the Commission talks about the need for separate Bills for agricultural workers and unorganised non-agricultural workers in order to address “the specific issues being faced by the two different sets of workers.” The Commission’s two draft Bills each address conditions of work as well as social security benefits. The current Bill addresses only benefits and does not include conditions of work. One argument for this approach is that it targets the worker regardless of where he is working. Due to seasonal work, many workers, such as migrant labour, may qualify as an agricultural worker in one season and an unorganised worker in another.

Table 1: Comparison of Commission Bills and Bill as Introduced in Parliament

	Draft Bill for agricultural workers (by NCEUS)	Draft Bill for non-agricultural unorganised workers (by NCEUS)	Bill as introduced in Parliament
Conditions of Work	Includes physical conditions of work, duration of work, and payment of wages for agricultural workers	Includes physical conditions of work, duration of work, and payment of wages for the wage worker and homemaker	Not included
Social Security Benefits	Mandates the central and state governments to implement a package National Social Security Scheme with health insurance, life and disability cover, and old age security to which all agricultural workers would be entitled. Allows central and state boards to formulate additional schemes	Mandates the central and state governments to implement a package of National Minimum Social Security Scheme to which all unorganised workers would be entitled	Allows central government to formulate suitable welfare schemes for different sections of unorganised sector relating to life and disability cover, health and maternity benefit, old age protection, and any other benefit decided by government
Constitution of National Social Security and Welfare Fund	Included	Included	Not included
Social Security and Welfare Boards	Establishes national board for unorganised workers, and state boards only for agricultural workers	Establishes national board for unorganised workers and state boards for non-agricultural workers	Establishes a national board and state boards for all unorganised workers (including agricultural workers)
Registration of Workers	Registers agricultural workers only; must be 18 years of age; sets monthly income at Rs 7,000 in 2007	Registers unorganised non-agricultural workers only; must be 18 years of age; sets monthly income at Rs 7,000 in 2007	Registers unorganised workers (does not differentiate); must be 14 years of age; allows central or state governments to set qualifying limits on monthly income
Delivery of Social Security Benefits	State boards responsible for delivery of mandatory minimum social security benefits	State boards responsible for delivery of mandatory minimum social security benefits	Not included
Enforcement and Dispute Resolution Bodies	Creates dispute resolution council and conciliation committees at district and sub-district levels	Creates dispute resolution council and conciliation committees at district and sub-district levels	Not included
Financing	Total estimated outlay of scheme for agricultural workers: Rs 19,400 crore	Total estimated outlay of scheme for unorganised non-agricultural workers: Rs 12,950 crore	No estimate included; to be determined as and when such schemes are formulated

Sources: Draft Agricultural Workers' Conditions of Work and Social Security Bill, 2007 (NCEUS); Draft Unorganised Non-agricultural Workers' Conditions of Work and Social Security Bill (NCEUS); The Unorganised Sector Workers' Social Security Bill, 2007; PRS.

International Comparison

Like India, many countries have social security programmes and contributory schemes for organised and government employees.⁴ Few other countries have formalised the concept of social security for an ‘unorganised’ or ‘informal’ sector because the percentage of the population employed in the unorganised sector is much smaller. Social welfare programmes tend to target unemployment, disability and old-age⁵ rather than an ‘informal’ or ‘unorganised’ sector.

Table 2: Some Government Schemes for Social Security in Other Countries

Country	Main Social Security	Target Group	Type	No. of Beneficiaries
China	No national social security scheme; Regulations on Guaranteeing Urban Residents' Minimum Standard of Living	Urban residents whose family income is below specified minimum	Basic subsistence assistance from local government; without income or working capability	22 million urban residents
Brazil	Social Security and Social Assistance programmes	Employed persons in industry, commerce, agriculture; domestic servants; casual worker; elected civil servants; self employed, needy elderly or disabled	Contributory schemes by employer and employee; self-employed must contribute 20% of declared earnings	30 million contribute; 18 million beneficiaries
US	Social Security; Medicare; Medicaid; various State Unemployment Insurance Benefits	Gainfully occupied persons including self-employed; excludes casual agricultural and domestic employees	Contributory scheme by employer and employee; start receiving payments after 65 years of age	163 million work and pay Social Security and Medicare taxes; 49 million beneficiaries
UK	Social Services, Social Security; National Health Service; Old Age Pension	Social services for elderly and disabled; social security for unemployed; NHS for health	Both contributory and non-contributory	Universal health care- £41 billion annual budget; 36% of 65-74 year olds receive old age pension

Sources: "Social Security Programs Throughout the World", the Social Security Administration of the United States; National Congress of Communist Party of China official website; British Health and Welfare System," British Council; "At a Glance Pension Report", BBC; "Dimensions of the Social Security Challenge in Brazil", World Bank; PRS.

Registration of Unorganised Workers

Verification of identity

Clause 9(1)(a) The Bill allows an unorganised sector worker to apply for registration with the district administration provided that he has completed 14 years of age and makes a self-declaration that he is an unorganised sector worker. It is unclear whether there would be any verification process to ascertain whether the individual is indeed in the unorganised sector.

Time limit

Clause 9(3) The Bill does not set a specific time limit within which the administration must issue the registration to the worker.

Definitions

Self-employed Worker and Wage Worker

Clauses 2(j), 2(m) The Bill defines both a 'self-employed worker' and a 'wage worker' based on "a monthly earning of an amount as may be notified by the central government or state government from time to time". It is not specified whether this would be an upper limit on the monthly wage.

Unorganised Sector Worker

Clause 2(1) The Bill defines an 'unorganised sector worker' as "a home-based worker, a self-employed worker or a wage worker in the unorganised sector". This phrase is ambiguous; it is unclear whether the home-based and self-employed workers must also be in the unorganised sector to qualify. Also, whereas the Bill sets a "monthly earning" to define self-employed worker and wage worker, there is no such limitation in the definition of a home-based worker.

Notes

1. This Brief has been written on the basis of the Unorganised Sector Workers' Social Security Bill, 2007, which was introduced in the Rajya Sabha on 10th September, 2007 and referred to the Standing Committee on Labour (Chairperson: Shri Suravaram Sudhakar Reddy). The Standing Committee is scheduled to submit its report within three months.
2. Union Budget Speech 2006-07, see <http://indiabudget.nic.in/ub2006-07/bs/speecha.htm> para 29.
3. "Report on Conditions of Work and Promotion of Livelihoods in the Unorganised Sector," NCEUS, August, 2007.
4. The Employees Provident Fund in Malaysia; Central Provident Fund in Singapore; Social Security and Medicare in United States.
5. See programmes in Canada, UK, US, Australia at <http://www.ssa.gov/policy/docs/progdesc/ssptw/>.

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