



RESEARCH BRIEF

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# SOCIAL SECURITY FOR INFORMAL WORKERS IN INDIA

Exploring India's Labour Market Policies on Provisioning of Social Security to Informal Workers in the Unorganised Sector

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## A. BACKGROUND

The Indian labour market has been, and continues to be, predominantly informal. In the year 2018-19, the nature of employment for around 90 per cent workers in India's labour market was informal. These workers are either inadequately covered or not at all covered under the existing labour legislations, social protection schemes, and other employment benefits. Due to lack of governmental oversight, a large proportion of these workers work in exploitative and precarious conditions. According to the International Trade Union Confederation, India is amongst the 10 worst countries in the world in terms of worker rights in 2020 (ITUC, 2020).

The first Sustainable Development Goal (SDG) seeks to end poverty, and among its targets is the formulation of national social protection floors, and implementation of comprehensive social welfare programmes. While providing a comprehensive social protection net is crucial in developing countries, it is also more challenging and costly than that for developed countries. The National Commission for Enterprises in Unorganised Sector (NCEUS) was commissioned by Government of India (GoI) in 2004 to take an in-depth look at the issues that enterprises in the informal sector faced and suggest a way forward. In its report, it asserted that providing social security should not be seen as a burden to the economy, and instead, is an important bedrock for a developing country to build from (NCEUS, 2007). In the context of widespread chronic poverty and unrelenting wealth inequality, social security can offer resilience against socio-economic shocks, such as the one we are faced with today because of the Coronavirus (COVID-19) pandemic (Pimentel, Aymar, & Lawson, 2018). Research has also shown that a comprehensive social security net in developing economies can enhance labour-market efficiency and stimulate socio-political and economic growth (Justino, 2003).

GoI has introduced several policy initiatives on labour and welfare to extend social security benefits to informal workers in the country. Despite that, their reach remains limited. In this brief, we analyse the social security provisions that are available to informal workers at present, specifically in the unorganised sector, and identify gaps and challenges in extending comprehensive social protection to these workers.

We begin by giving an overview of two crucial concepts: social security (or social protection), and informality. Next, we look at different Union government legislations and schemes that govern social security for informal workers in the unorganised sector in India. In the next section, we identify challenges and bottlenecks that exist in India's current labour policy in extending social welfare in a comprehensive way. Finally, we present a way forward to ensure social security to a wider group of informal workers.

## B. DEFINING SOCIAL SECURITY

The concept of social security has evolved over time. One of its earliest mentions was in the Beveridge Committee Report in 1942, where it was described as "freedom of want," and its provisions were limited to maintenance of employment, children's allowances, and comprehensive health services (Majumdar & Borbora, 2013). Subsequently, in 1952, the International Labour Organisation (ILO) proposed a more nuanced understanding of social security- as protective measures against social and economic distress. These included protective measures against abrupt reduction or stoppage in income resulting from sickness, maternity, employment injury, unemployment, disability, old-age death, and provision for medical care (ILO, 1952).

ILO's approach to social security was criticised for being limited to the experience of developed countries (Sarkar, 2004). Developing countries, generally speaking, had (and continue to have) a much larger informal sector, higher levels of poverty, low levels of industrialisation, among other constraints. They require a wider conception of social security. Jean Drèze and Amartya Sen argue that, in developing countries, social security should be seen more broadly as pro-poor measures implemented through public means (Sen & Drèze, 1989). Thus, in developing countries like India, social security is best understood as pro-poor measures that can be: a) promotional, aiming to augment income, such as through the Mahatama Gandhi National Rural Employment Guarantee Act (MGNREGA); b) preventive, aiming to forestall economic distress, such as through Provident Funds (PF); and c) protective, aiming to ensure relief from certain external shocks, such

as remuneration provided through insurance schemes in the case of injury or death of a primary breadwinner (Sarkar, 2004).

Despite the large size of India's informal sector, in practice, most social security provisions remain limited to formal employment. Before we explore the state of social security in the informal sector and associated challenges, we first clarify what is meant by 'informality'. We then take a brief look at key informal labour market statistics in India, to better understand its scope and significance.

## C. INFORMALITY IN THE CONTEXT OF LABOUR MARKET

### C1. A Global Perspective

Social protection and informality are intricately linked. The initial attempts to conceptualise informality focused on characteristics of 'production units' or enterprises, and categorised them as 'informal' or 'formal'. In 1993, the 15<sup>th</sup> International Conference of Labour Statisticians (ICLS) convened by ILO (ILO, 1993), adopted this approach and defined proprietaries or partnerships without a complete set of accounts that produced goods or services for barter or sale, as informal enterprises. This approach was criticised later for not taking into consideration the informal jobs available even within formal enterprises.

The 17<sup>th</sup> ICLS in 2003 (ILO, 2003), incorporated the term 'informal employment' for the first time, to describe informality in terms of the condition of people and their work. The key characteristics of informal labourers were chalked out as: a) own-account labourers working in informal enterprises as defined by the 15th ICLS; and b) employees with informal jobs in both informal and formal sectors. Thus jobs were considered informal if "...their employment relationship is, in law or in practice, not subject to labour legislation, income taxation, social protection or entitlement to certain employment benefits (advance notice of dismissal, severances of pay, paid annual or sick leave, etc.)" (ILO, 2003). Since then, these definitions have been used as the global standards to define informality, even though countries can refine as per their labour market characteristics and data availability.

The interconnectedness of informality and social security was more evident in the ILO's Recommendation number 204 (R204) that came more than a decade later in the year 2015. It called for policy initiatives with a consultative approach involving all stakeholders to help economies transition from the informal to the formal (ILO, 2015). It also emphasised the need to have national social protection floors with a focus on the informal labour market. It suggested progressively extending social protection measures, such as maternity benefits and right to a sustainable minimum wage, to all informal workers.

Being one of the member countries of ILO, and a key contributor to global statistical definitions of informal sector indicators, India has been following the 15<sup>th</sup> and 17<sup>th</sup> ICLS definitions to define informality. Since 1993, all-India representative household surveys focussing on employment and employment situations, conducted by National Sample Survey Office (NSSO) under the Ministry of Statistics and Programme Implementation (MoSPI), have been primarily used as the data source to estimate the extent of informality in India's labour market. Since the year 2017-18, these surveys have been replaced with Periodic Labour Force Surveys (PLFS), with certain modifications in the design.

### C2. Informality in Indian Labour Market

India's total workforce can be disaggregated according to two dimensions: (a) sector of work, based on the type of enterprise or production unit where the person is employed; and (b) type of employment, defined in terms of employment status and other job-related characteristics. Sector of work can further be sub-divided into three categories: the formal (or organised) sector; informal (or unorganised) sector; and the household sector. Similarly, the type of employment can be categorised as formal and informal.

**Table 1** presents the distribution of total workforce in India across types of employment and sectors of work, during the period from June 2018 to July 2019, based on PLFS. Of the total workforce in India, majority (80 per cent) was engaged in the informal sector, followed by 20 per cent in the formal sector, and a small proportion (1 per cent) in the household sector. The household sector refers to households producing goods exclusively for their own, final use, and households employing paid domestic workers. Considering all three sectors, as high as 90.3 per

cent of the total workforce was engaged in informal employment in 2018-19. Moreover, 9.5 per cent of workers had informal nature of jobs even though they were employed in the formal sector.

**Table 1: Share of total workers in India across type of employment and sector, 2018-19**

Type of employment	Sector			
	Informal sector	Formal sector	Household sector	All sectors
Informal employment	79.6%	9.5%	1.2%	<b>90.3%</b>
Formal employment	0.5%	9.2%	0.0%	<b>9.7%</b>
<b>Total employment</b>	<b>80.2%</b>	<b>18.6%</b>	<b>1.2%</b>	<b>100%</b>

**Source:** Authors' estimates based on 'Periodic Labour Force Survey' (PLFS), 2018-19, NSO, MoSPI

In order to understand the status of social security provision to workers by employers, let us focus on a subset of workers who are either regular-salaried earners or casual labourers in the non-agriculture sector and Agricultural Sector Excluding Growing of Crops (AGECE). This is because PLFS collects information on access to social security for this set of workers only, and excludes the self-employed, since they cannot be attached to any particular employer. To understand the change over time, we compare the scenario in 2018-19 with that in 2011-12. **Table 2** presents access to three types of benefits in the workplace: availability of any social security; eligibility for paid leave; and having a written job contract.

In 2018-19, a majority of these workers did not have any kind of social protection from their employers. While only 19 per cent had a written job contract, around 29 per cent workers were eligible for paid leave. In terms of social security provisions, only one-fourth (26 per cent) were eligible for one or a combination of social security benefits among Provident Fund (PF), pension, gratuity, healthcare benefits and maternity benefits. While 35 per cent workers in urban India, were eligible for such benefits, the share in rural areas was only 17 per cent.

Between 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.

**Table 2: Regular salaried earners and casual labourers with access to social security, other benefits**

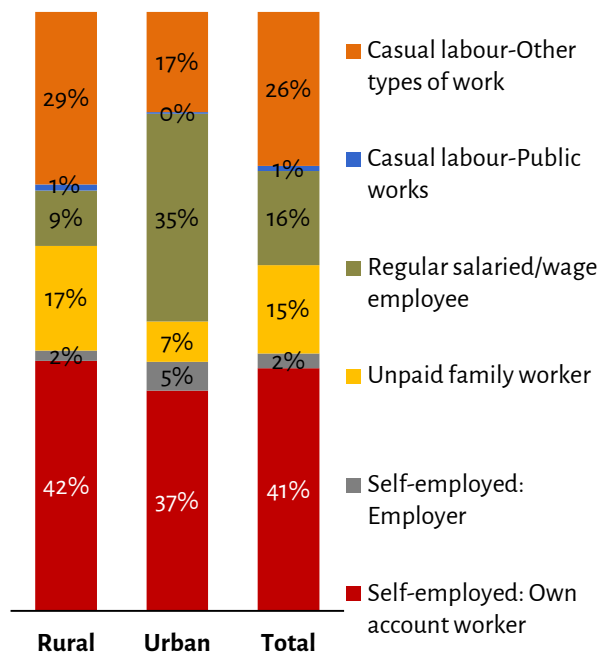
Year	Availability of social security benefits	Eligibility for paid leave	Has written job contract
<b>Rural India</b>			
2011-12	15%	19%	15%
2018-19	17%	20%	15%
<b>Urban India</b>			
2011-12	33%	39%	27%
2018-19	35%	38%	23%
<b>All-India</b>			
2011-12	23%	28%	21%
2018-19	26%	29%	19%

**Source:** Authors' estimates based on 'Periodic Labour Force Survey' (PLFS), 2018-19, NSO, MoSPI and 'Employment and Unemployment Survey', 2011-12, 68<sup>th</sup> round, NSSO, MoSPI.

If we consider only the regular salaried workers, around half of them (53 per cent) did not receive any social security benefits from the employer in 2018-19. This indicates high prevalence of informal jobs even among those who have regular salaried jobs. Thus, the condition of casual labourers and self-employed own-account workers is extremely vulnerable in terms of access to social security.

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 (refer **Figure 1**). If we consider urban areas only, almost half of the informal workers were self-employed, followed by 35 per cent being regular salaried workers.

**Figure 1: Distribution of informal workers in India across type of employment and place of residence, 2018-19**



Source: Authors' estimates based on Periodic Labour Force Survey (PLFS), July 2018 to June 2019, NSO, MoSPI

## D. LABOUR LAWS IN INDIA

The GoI 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 (MoL&E) had begun categorising all existing labour laws into four 'Labour Codes'. This codification is expected to rationalise and simplify current legislations across a variety of labour issues.

The four Labour Codes are: (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. In this section, we briefly discuss these labour market legislations, with a focus on informal workers in the Code on Social Security.

### D1. The Code on Wages, 2019

The Code on Wages was passed by the Parliament and received the President's nod in August 2019 (MoL&E, "Code on Wages" 2019). It consolidates the following legislations concerning wages:

- Minimum Wage Act, 1948;
- Payment of Wages Act, 1936;
- Payment of Bonus Act, 1965;
- Equal Remuneration Act, 1976.

The codification made two critical changes in definitions. First, while the Minimum Wage Act, 1948 was applicable only to the 'schedule of employment' covered under law, the Code extended the ambit by removing the distinction between scheduled and non-scheduled employment. Accordingly, the definition of 'employee' and 'employer' has been expanded to include both formal and informal sectors. Second, the Code extended the application of the Minimum Wages Act, 1948 and Payment of Wages Act, 1936, from being limited to workers whose income had to be under a predetermined ceiling, to cover all establishments and employees unless specifically exempted (Kasturirangan et al, 2019).

The state governments are supposed to fix the minimum wage for their region, which cannot be lower than the national wage floor that is set by the GoI. Employers are prohibited from paying less than the notified minimum wage of the respective region, unless specifically exempted in the Code. Earlier, the minimum wage was set using a formula laid down by The Indian Labour Conference (ILC) in 1957. The formula included considerations such as expenses on adequate nutrition, clothing, education, healthcare, etc. (Jayaram, 2019). This formula was reiterated in 2012 and 2015 by the 44<sup>th</sup> and 46<sup>th</sup> ILC, respectively. The new Wage Code ignores this formula, and does not suggest an alternative in its place. It gives the state administration the power to determine and set a suitable minimum wage.

The Union or state governments can set the number of hours in a routine working day. In case employees work more than the stipulated hours, they are entitled to overtime pay, no less than twice the normal rate of wages. Provisions of the erstwhile Payment of Bonus Act, 1965, are incorporated to ensure that those who are earning less than a predetermined wage ceiling will be entitled to an annual bonus, which will be at least 8.3 per cent of their wage or Rs. 100, whichever is higher. Interestingly, specific mention of 'man' and 'woman' in the Equal Remuneration Act, 1976, which ensured equal compensation for the same work for men and women, has been replaced by 'gender'.

This can potentially extend protection to transgender communities from discrimination.

The Code also sets up a quasi-judicial appellate authority that is responsible for overseeing disputes. Importantly, the Code has changed the role of Inspectors-in-Charge of monitoring compliance to Inspectors-cum-Facilitators. The erstwhile inspector could undertake surprise checks after getting notified about potential violations, inquire about employers, or enter workplaces. However, the Inspector-cum-Facilitators are no longer empowered to carry out these functions. Instead, they are required to advise employers and employees on how to effectively comply with the Code.

## D2. The Industrial Relations Code, 2020

The Industrial Relations Code was passed by the Parliament in September 2020. It consolidates the following labour laws:

- Industrial Disputes Act, 1947
- Trade Unions Act, 1926
- Industrial Employment (Standing Orders) Act, 1946

The Code legislates over strikes, trade union registrations, and resolution of industrial disputes. To register a trade union, it is required to have either 10 per cent of the workers of an industry or a minimum of 100 workers. If a trade union has membership of 51 per cent of the workers, it will be the sole designated negotiating union. Otherwise, the Code stipulates the formation of a negotiating council of unions. It also introduces a necessary 60-day notice that workers must submit before any strike, which was not required before. Establishments with more than 300 workers are required to take permission from the Union or state governments before laying off workers. Under the previous legislation, the threshold for workers in an establishment to make the provision applicable, was 100 workers. It also provides for setup of an Industrial Tribunal to resolve disputes.

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**One of the more controversial provisions of the Industrial Code allows companies to directly hire workers on short-term contracts instead of providing more stable employment or going through a contractor. Because of this, the Code has faced immense backlash from trade unions.**

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One of the more controversial provisions of the Code allows companies to directly hire workers on short-term contracts instead of providing more stable employment or going through a contractor. The Code has faced a lot of backlash from trade unions, which called for nationwide protests. Trade unions have called the Code “anti-workers” arguing that it allows employers to hire and fire workers more easily, and reduces the bargaining power of workers (Paliath, 2020).

## D3. The Occupational Safety, Health and Working Conditions Code, 2020

This Code was passed by the Parliament in September 2020. It subsumes 13 legislations related to health and safety of workers in the workplace (refer **Table 3**).

**Table 3: Labour Laws under the Occupational Safety, Health and Working Conditions Code, 2020**

Sl. No.	Labour laws
1	The Factories Act, 1948
2	The Plantation Labour Act, 1951
3	The Mines Act, 1952
4	The Dock Workers (Safety, Health and Welfare) Act, 1986
5	The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996
6	The Contract Labour (Regulation and Abolition) Act, 1970 (except chapter III and IV)
7	The Inter -State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979
8	The Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions (Amendment) Act, 1996
9	The Working Journalists (Fixation of Rates of Wages) Act, 1958
10	The Motor Transport Workers Act, 1961
11	The Sales Promotion Employees (Conditions of Service) Act, 1976
12	The Cine Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981
13	The Beedi and Cigar Workers (Conditions of Employment) Act, 1966

Source: The Occupational Safety, Health and Working Conditions Code, 2020. Available online at: [https://labour.gov.in/sites/default/files/OSH\\_Gazette.pdf](https://labour.gov.in/sites/default/files/OSH_Gazette.pdf)

The Code lays down the regulatory framework for establishments with 10 workers or more, and all mines and docks, regarding health and safety conditions of employees. Establishments that fall under the Code are required to register themselves with relevant officers assigned by the Union or state governments. The minimum standards of working conditions and welfare facilities are to be notified by the Union government. The Code also stipulates the setting up of 'Safety Committees' for certain establishments and classes of workers. These committees will be represented equally by employers and employees, and function as a bridge between the two.

Interestingly, in the light of the migrant crisis following the lockdown during the COVID-19 pandemic, the Code has incorporated certain provisions for inter-state migrants. Under these changes, any inter-state migrant will be able to access the benefits of the Public Distribution System (PDS). Moreover, the Code directs the Union and state governments to maintain a database of all inter-state migrants. Finally, part of the money collected through fines imposed under the Code, will be allocated to a social security fund dedicated to migrant workers.

#### **D4. The Code on Social Security, 2020**

The Code on Social Security was passed by the Parliament in September 2020. Under this Code, social security is defined as "*...the measures of protection afforded to employees, unorganised workers, gig workers and platform workers to ensure access to health care and to provide income security, particularly in cases of old age, unemployment, sickness, invalidity, work injury, maternity or loss of a breadwinner by means of rights conferred on them and schemes framed, under this Code.*" It consolidates and rationalises 10 existing legislations (refer **Table 4**).

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**The Code on Social Security, 2020, directs the Union and the state governments to consider designing welfare schemes to provide social security to gig economy workers such as, online-platform based taxi drivers, delivery persons, etc.**

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**Table 4: Labour Laws under Social Security Code**

Sl. No.	Labour laws
1	The Employees' Compensation Act, 1923
2	The Maternity Benefit Act, 1961
3	The Payment of Gratuity Act, 1972
4	The Unorganised Workers' Social Security Act, 2008
5	The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare (Cess) Act, 1976
6	The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Fund Act, 1976
7	The Beedi Workers Welfare Cess Act, 1976
8	The Beedi Workers Welfare Fund Act, 1976
9	The Cine Workers Welfare Fund Act, 1981
10	The Building and Other Construction Workers Cess Act, 1996

**Source:** The Social Security Code, 2020. Available online at: [https://labour.gov.in/sites/default/files/SS\\_Code\\_Gazette.pdf](https://labour.gov.in/sites/default/files/SS_Code_Gazette.pdf)

The Code provisions for the Union government to introduce social security schemes for workers. Such social security measures include schemes such as: Employees' Provident Scheme; Employees' Pension Scheme; schemes for the benefit of unorganised workers, etc. It also directs governments to take into account the welfare of gig economy workers such as for-hire drivers or delivery persons. There are multiple thresholds for eligibility in different schemes, depending on the number of workers employed in the establishment and the income being drawn. As per the Code, to provide social security for unorganised workers, gig workers and platform workers, the Union government can frame suitable welfare schemes on matters relating to life and disability cover, health and maternity benefit, old age protection, and education. Similarly, the state governments can frame schemes on aspects such as provident fund, employment injury benefit, and housing, educational schemes for children, etc.

The Code, much like the erstwhile Unorganised Workers Social Security Act (UWSSA), stipulates the formation of national and state-level Social Security Boards to recommend schemes for unorganised workers. Similar to the Code on Wages, this Code also introduces Inspector-cum-Facilitators and a quasi-judicial appellate authority to adjudicate over disputes.



## E. UNION GOVERNMENT SCHEMES FOR SOCIAL SECURITY OF INFORMAL WORKERS

As discussed above, various labour laws consolidated under the Code on Social Security, mandate certain provisions of social security and welfare rights to all workers- formal as well as informal. The conditionalities of social security or welfare, however, are pre-determined by the welfare schemes. The Union government's welfare schemes can be broadly divided into two types: Central Sector (CS) schemes that are fully funded by GoI and Centrally Sponsored Schemes (CSSs), for which the finances are contributed by both GoI and state governments.

In this section, the schemes that offer social security towards informal workers are discussed. The list of schemes is prepared using a three-stage process. First, all schemes that come under the purview of the erstwhile UWSSA, which has now been subsumed under the Code on Social Security, are considered. This is because these schemes are specifically targeted towards the informal workers in the unorganised sector, and are presently operational. Second, schemes that can provide social protection to informal workers, and not under the UWSSA, are considered. Third, schemes that are designed for economically disadvantaged families in general, to provide them protection against socio-economic distress have been considered, as these are applicable to informal workers as well.

It is important to note that schemes that indirectly provide support to improve financial conditions of workers, or socio-economic benefits to their families in the long-term (those offering microfinance for business support, skill-development, education of children, etc.), are not discussed here. Instead, schemes that offer immediate livelihood support or protection against any life-cycle distress such as health issues, accidents, deaths, oldage etc., have been included.

### E1. Schemes under Erstwhile UWSSA, Subsumed under the Code on Social Security, 2020

**Table 5** lists the social security schemes covered under the erstwhile UWSSA 2008, which are now assimilated into the Code on Social Security, 2020. While some of these schemes offer to provide long-term social protection to the unorganised workers and their families against old age, death etc., others aim to support them against sudden socio-economic shocks such as loss of employment, health crisis, accidents, etc. Most of these schemes are applicable for unorganised workers from BPL households.

**Table 5: Social Security Schemes under Erstwhile UWSSA, Subsumed under the Code on Social Security, 2020**

Sl. No.	Welfare scheme
1	<b>National Family Benefit Scheme (NFBS)</b> The NFBS under the Ministry of Rural Development (MoRD), provides single-time payment of Rs. 10,000, in the case of the death of the primary earner of a family.
2	<b>Janani Suraksha Yojana (JSY)</b> JSY scheme provides conditional cash transfer to reduce maternal and neonatal mortality by promoting institutional delivery among pregnant women. Financial assistance for institutional delivery in Low Performing States is Rs. 1,400 in rural areas, and Rs 1,000 in urban areas. In High Performing States it is Rs 700 in rural areas, and Rs 600 in urban areas.
3	<b>Indira Gandhi National Old Age Pension Scheme (IGNOAPS)</b> IGNOAPS is a non-contributory old-age pension scheme that covers citizens below the poverty line (BPL), and above the age of 60 years. It provides economic support during old-age.
4	<b>Handloom Weavers Comprehensive Welfare Scheme (HWCWS)</b> It provides life, accidental, and disability insurance coverage to handloom weavers.
5	<b>Handicraft Artisans Comprehensive Welfare Scheme (HACWS)</b> It provides health and life insurance coverage for handicraft artisans.

Sl. No.	Welfare scheme
6	<b>National Scheme for Welfare of Fishermen</b> It provides financial assistance to fishermen during lean seasons and for other purposes such as construction of houses and tube-wells. The scheme reduces the insecurity that comes from the seasonality of a person's occupation.
7	<b>Aam Admi Bima Yojana (AABY)</b> AABY, administered by the Life Insurance Corporation of India (LIC), offers insurance coverage to one earning family member. It provides monetary support, protecting beneficiaries from economic distress in the case of death or in case of permanent or partial disability.
8	<b>Pension to Master Craft Persons</b> It provides pension of Rs 2,000 per month to master craftsman aged 60 years or above, who are recipients of national awards or merit certificates or state awards in handicrafts and whose private income is less than Rs. 30,000.

Source: The Unorganised Workers Social Security Act, 2008. Available online at: <http://legislative.gov.in/sites/default/files/A2008-33.pdf>

## E2. Social Security Schemes for informal workers, currently outside of the Code on Social Security, 2020

Table 6 presents a list of Union government schemes that offer some kind of social protection for unorganised sector workers in India, but did not come under the purview of erstwhile UWSSA, which is now subsumed under the Code on Social Security, 2020. These are selected from the CSSs and CS schemes implemented by the following ministries: (a) Ministry of Rural Development; (b) Ministry of Health and Family Welfare; (c) Ministry of Textiles; (d) Ministry of Fisheries, Animal Husbandry & Dairying; (e) Ministry of Labour & Employment; (f) Ministry of Finance; (g) Department of Agriculture, Cooperation and Farmers Welfare; (h) Ministry of Women and Child Development; and (i) Ministry of Consumer Affairs, Food & Public Distribution.

While some of these schemes provide long-term social security, others try to protect the informal workers from sudden financial distress.

**Table 6: Social Security Schemes for Unorganised Workers, not Specified under the Social Security Code, 2020**

Sl. No.	Welfare schemes
1	<b>Pradhan Mantri Shram Yogi Maan-dhan (PM-SYM)</b> Implemented by MoL&E in 2019, this is a voluntary contributory scheme for unorganised workers' economic surety during old-age. It is meant for those who are not covered under the New Pension Scheme (NPS); Employees' State Insurance Corporation (ESIC) scheme; or Employees' Provident Fund Organisation (EPFO). It covers home-based workers, street vendors, cobblers, ragpickers, domestic workers, rickshaw pullers, landless labourers, own account workers, among others.
2	<b>National Pension Scheme for Traders and Self-Employed Persons (NPS-Traders)</b> NPS-Traders, another MoL&E scheme, aims at old age social security to retail traders, shopkeepers or self-employed persons with an annual turnover of less than Rs. 1.5 crore.
3	<b>Atal Pension Yojna (APY)</b> APY, under the Ministry of Finance, is another contributory pension scheme for unorganised workers such as maids, delivery boys, gardeners etc. who do not pay income tax.
4	<b>Pradhan Mantri Jeevan Jyoti Bima Yojana (PMJJBY)</b> PMJJBY, under the Ministry of Finance, provides life insurance cover to unorganised workers of Rs. 2 lakh, on payment of premium of Rs. 330 per annum. It is applicable to the 18 to 50 years age group.
5	<b>Pradhan Mantri Suraksha Bima Yojana (PMSBY)</b> PMSBY, under the Ministry of Finance, provides insurance cover to unorganised workers. It provides Rs. 2 lakh on accidental death or full disability, and Rs. 1 lakh on partial disability, on payment of a premium of Rs. 12 per annum. It is applicable to the 18 to 70 years age group.
6	<b>Pradhan Mantri Kisan Man Dhan Yojana (PM-KMY)</b> PM-KMY under the Ministry of Agriculture & Farmers Welfare, provides pension of Rs 3,000 per month to small and marginal Farmers on attaining the age of 60 years. The eligible farmer is required to contribute between Rs. 55 to Rs. 200 per month depending on the age of entry.
7	<b>Pradhan Mantri Kisan SAMman Nidhi (PM-KISAN):</b> PM-KISAN is an income support scheme that provides small and marginal farmers with up to Rs. 6,000 per year to support their financial needs. It aims at improving the economic security of farmers.

Source: Centre Sector Schemes and Centrally Sponsored Schemes under Union Budget document. Available online at: <https://www.indiabudget.gov.in/index.php>

### E3. General Social Protection Schemes for Economically Disadvantaged Groups

As discussed, social security policies for vulnerable groups in developing countries are best understood as pro-poor strategies. Here we discuss some key schemes targeting the improvement of livelihoods of the poor or providing them protection against financial distress. Since these schemes have a broader coverage, they are applicable to informal workers as well, from the poorest economic strata (refer **Table 7**).

**Table 7: Schemes Protecting Poor Families against Socio-Economic Distress**

Sl. No.	Welfare scheme
1	<b>Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS)</b> It is one of the most widely implemented schemes with a legal mandate under MGNREGA. It aims to ensure livelihood security by guaranteeing 100 days of employment to every rural household, in a year.
2	<b>Public Distribution System (PDS)</b> PDS aims at ensuring food security, as mandated by the National Food Security Act (NFSA), 2013, by providing certain essentials such as pulses, wheat, rice, etc., at a subsidised rate to poor families.
3	<b>Indira Gandhi National Disability Pension Scheme (IGNDPS)</b> It provides citizens with severe disabilities above the age of 18 years, with up to Rs. 300 per month, to protect them from economic distress due to disability.
4	<b>Indira Gandhi National Widow Pension Scheme (IGNWP)</b> IGNWPS is applicable to widows who do not qualify for the IGNOAPS, i.e. are less than 60 years of age. The beneficiaries are entitled to Rs. 200 per month.
5	<b>Varishtah Pension Bima Yojana (VPBY)</b> VPBY, administered through the Life Insurance Corporation of India (LIC), is a pension scheme for senior citizens.
6	<b>Pradhan Mantri Matru Vandana Yojana (PMMVY)</b> PMMVY under the Ministry of Women and Child Development, provides conditional cash transfers to pregnant women and lactating mothers for the first live birth. A cash benefit of Rs. 5,000 is provided in three instalments on fulfilling the eligibility criteria.
7	<b>Ayushman Bharat –Pradhan Mantri Jan Arogya Yojana (PM-JAY)</b> PM-JAY aims at protecting poor households against the financial shock of hospitalisation. It provides a cover of up to Rs.5 lakh per family, per year, for secondary and tertiary care hospitalisation at public and empanelled private hospitals.

**Source:** Centre Sector Schemes and Centrally Sponsored Schemes under Union Budget document. Available online at: <https://www.indiabudget.gov.in/index.php>

## F. CHALLENGES IN ACCESS TO SOCIAL SECURITY FOR INFORMAL WORKERS

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. In this section, we explore some of the key gaps and challenges. The first subsection explores gaps in the specific provisions related to social security of informal workers in the revised regulations under the Code on Social Security. The second subsection looks at some general issues linked with social security coverage for informal workers. While there are specific challenges related to design and implementation of individual schemes, this brief focuses on some of the broader challenges that may be applicable across schemes. The last subsection explores some of the other challenges posed by the COVID-19 pandemic.

### F1. The Code on Social Security, 2020

Given the continued lack of access to requisite social security for informal workers along with the failure of the UWSSA to effectively extend its reach, the Code on Social Security was a welcome opportunity to introduce much-needed changes. Unfortunately, many of the provisions of UNWSSA, have been retained in the Code. Moreover, some of the accountability and monitoring mechanisms in provisioning of social security benefits by employers, have been relaxed further in the consolidated Code. Unless specific schemes and rules are announced by government for informal workers under the new Code in the near future, it is unclear how it will help address some of the gaps of the previous legislations that are currently subsumed under it.

### Lack of reform with the erstwhile UWSSA continues in the Social Security Code, 2020

Even after UWSSA came into force in 2008, there had been little progress in creating accessible and effective social security schemes for informal workers in the unorganised sector. By and large, the Code on Social Security mostly directly picks from the UWSSA. It does not elaborate on the scope, nature, funding mechanism or minimum goals of the possible social security schemes. More importantly,

it fails to address some fundamental issues that made UWSSA ineffective. For example, the national and state-level advisory boards, under both the Code and erstwhile UWSSA, have an advisory role only, and no institutional power. The registration of unorganised workers is the responsibility of the district administration, but there is no provision to hold them accountable. This has led to limited registration of unorganised workers (Satpathy, 2018).

### **Lacking facilitation of registration**

The Code authorises the building of Workers Facilitation Centres (WFC) to aid workers with registration, information, and for identifying beneficiaries for various schemes. The Code, diverging from the erstwhile UWSSA, no longer requires the district administration to ensure and facilitate registration of workers. Thus, no authority or institution can be held accountable for delayed registration. In its place, the Code does not legislate any other mechanism to supervise the registration of workers. This might further weaken the monitoring of the registration process.

### **Giving up legislative ground to the executive**

At numerous instances in the Code, specifics are missing. The Code stipulates “as may be prescribed” or “as may be framed” at the discretion of the executive. A recent report by the Parliamentary Standing Committee on Labour on the Code of Social Security (MoL&E, 2020), also noted that too many substantive provisions have been left for the executive to decide. This concedes democratic legislative ground to the executive. Importantly, this means that vital provisions can be defined and re-worked through the executive without the participation of stakeholders or democratically elected Parliament. Despite the Standing Committee’s recommendation that the MoL&E review such provisions and specify them in a clear manner, the Code was passed with several such provisions.

### **Lack of a minimum benefit policy at the national level**

Social security provisions currently have varying thresholds. This means that the benefits one is entitled to, depends on the wage earned by the worker and the total number of workers in the enterprise, among other things. Thus, there is no minimum social security benefit that a citizen is guaranteed. On examining the state of unorganised workers’ social security provisions, the

‘Working Group on Labour Laws and Other Regulations’ (MoL&E, 2011), suggested the creation of a national ‘minimum benefit policy’ that will extend to all workers. This is resonant with international norms where the importance of a minimum social protection floor is recognised. For example, under the SDG for eradicating poverty, target 1.3 calls for the implementation of nationwide social protection floors. Similarly, the ILO Recommendation 204 suggests the implementation of minimum social security guarantees to facilitate the transition from an informal to a formal economy.

## **F2. Other Gaps and Challenges in Provision of Social Security to Informal Workers**

### **Fragmented administration systems and impact on the delivery of social security**

There are various ways in which the administrative and delivery systems with respect to social security are fragmented. Firstly, a unified database of unorganised workers does not exist. Social security schemes are run by different Union government ministries. Separate beneficiary databases are maintained under each such scheme and by the relevant department. Additionally, there are state-level schemes that have different implementation apparatuses. Thus, the system for identifying beneficiaries is fragmented, which means that a worker has to apply for each scheme separately, filling in forms and furnishing different documents. This makes the process cumbersome.

The fragmented administrative setup also proves to be a hindrance for scheme portability. When a worker moves between states for employment, they might have to forego certain social security benefits, such as access to PDS. The Occupation Safety, Health and Working Conditions Code, 2020 attempts to introduce a degree of flexibility in access to social security for migrant workers, specifically with respect to PDS. However, due to the fragmented financial and administrative structures of social security, there are several implementation obstacles. For example, it is unclear which state will be required to pay for migrant workers’ social security benefits- the ‘source’ state or the ‘destination’ state? Similarly, for schemes aimed at households, how will migrant workers’ family avail benefits when the worker moves out of the state? An integrated and decentralised structure of financing and administering social security is

required to effectively account for the needs of migrant labourers (Aiyar et al ,2020).

### **Exclusion errors**

For the most vulnerable, exclusion from social security benefits they are entitled to, can be debilitating. In fact, for many schemes, the issue of exclusion has been identified long back. In 2013, a report by the 'National Social Assistance Programme Task Force' revealed that there were significant inclusion (incorporating ineligible beneficiaries) and exclusion errors (MoRD, 2013). Even though, de facto an Aadhar card is not required to avail most benefits, research has shown that the linking of social security with Aadhar, led to the exacerbation of an already difficult situation by adding another layer of requirement and checks (Choudhry et al, 2018). A recent survey amongst Jharkhand's particularly vulnerable tribal groups showed that Aadhar disrupted their PDS supply and pension payments (Choudhry et al, 2018). Similarly, attempts to digitize the welfare system at a fast pace has led to an increase in exclusion errors (Dhorajiwala,2020). Human error in entering records of eligible beneficiaries into the online databases, poor internet connectivity in certain areas, and issues related verification of records, are some aspects that lead to exclusion.

### **Lack of regular revision of entitlement amounts**

Without regular revisions of the financial benefits provided under various welfare schemes, the real benefits accessed from the schemes starts reducing. The 'NSAP Task Force' report (MoRD, 2013) pointed out that in order to ensure that monetary benefits from different schemes remain uniform, it is necessary to revise them at regular intervals. For example, even though the amount provided under the IGNOAP scheme was revised from Rs. 200 to Rs. 500 for beneficiaries who are 80 years of age and above in 2011, it has not been revised for others (MoRD, 2011). For those in the age-group of 60 to 79 years, it was last revised in 2006-07 to Rs. 200 and has not been revised since (Sabhiki, 2017). Similarly, the 'Estimates Committee', which was a government committee set up by the Parliament for scrutinising the utilisation of funds of different ministries, recommended increasing pension under the Indira Gandhi National Widow Pension Scheme and Old-Age Pension Scheme in 2014 (MoRD, 2014). This is yet to be implemented.

## **F3. Challenges Highlighted by COVID-19 Pandemic**

The COVID-19 pandemic revealed the extent of vulnerability of India's poor, especially the informal workers. Following the announcement of one of the strictest lockdowns in the world (Mehrotra, 2020), more than one crore migrant workers had to return to their native places during the lockdown period. A survey conducted by Azim Premji University during the first three months of the pandemic found that 66 per cent workers had lost their jobs. By the end of May 2020, while around 77 per cent of households reported a reduction in their food consumption, 47 per cent did not have the means to buy essentials even for a week. Majority of the workers who had lost work, were casual and non-agricultural self-employed workers (Lahoti, Abraham, Kesar, Nath, & Basole, 2020).

A common thread in these experiences has been the difficulty faced by casual labourers in accessing any kind of social welfare. The reach of relief measures announced by the Union government has also been limited. As lakhs of labourers can be pushed back into poverty due to the pandemic (Nair, 2020), social protection becomes even more vital for survival. Over and above the challenges in providing social protection mentioned above, new challenges have been thrown up by the pandemic.

### **The financial inclusion infrastructure**

GoI has increased its reliance on Direct Benefit Transfers (DBT) to disperse social security benefits over the last decade. In many rural areas and remote locations, the working of DBT depends on Business Correspondents or Bank Mitras. They function as micro-mobile Automated Teller Machines (ATMs), taking cash to remote and inaccessible areas. However, due to travel restrictions during the pandemic, their functioning had been severely affected (Manikandan, 2020). With the reduced presence of Bank Mitras, it was hard for those with difficulties in travelling, such as aged people or persons with disabilities, to get their hands-on cash.

### **Portability of social security benefits**

The administrative bottlenecks in introducing flexibility for social security provisions has been discussed in Section F2 as well. For provisions that prima facie incorporates migrants, such as old age pensions and schemes for

unorganised workers, their administrative architecture does not make any specific provisions for migrants (Mukhopadhyay and Naik, 2017). Therefore, a comprehensive security net for migrant workers, which is de-linked from the place of origin, becomes all the more important. Schemes that are more place-specific such as the PDS system, have been even less accommodating. Since ration cards are given to households and not individuals (with some regional exceptions), the migrant workers often have to leave their ration cards with families at their native places and cannot have access to subsidised food. Even though recent labour law reforms have tried to address this issue by making PDS benefits portable, there is no clarity on how these proposed changes would be implemented in the current fragmented financing set-up.

### **Ensuring sustainable livelihood**

Many states have experienced high levels of reverse migration during the pandemic, including Uttar Pradesh, Bihar, Madhya Pradesh, Punjab, Rajasthan, Uttarakhand, and West Bengal. However, most of these states are not equipped to sustain such a steep increase in labour force. Even before the pandemic, many of these states were reeling under an agrarian crisis with falling productivity, water scarcity, and decreasing demand (Dandekar & Ghai, 2020). Ensuring sustainable livelihood for these returnees will be a big challenge. Several measures have been started to respond to this, one of them being skill-mapping exercises to link them to Micro, Small and Medium Enterprises (MSMEs). States have been depending a lot on job-creation through MGNREGS as well. In the month of June 2020, the Union government announced the launch of Garib Kalyan Rojgar Abhiyaan (GKRA) to provide migrants with meaningful employment. The scheme ran for 125 days in 116 districts in six states: Bihar, Uttar Pradesh, Jharkhand, Odisha, Madhya Pradesh, and Rajasthan. However, given the temporary nature of these initiatives, they cannot create sustainable livelihoods in the long run.

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**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.**

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## **G. WAY FORWARD**

The humanitarian case for a robust social security system for informal workers has never been clearer. However, our current model has not been able to provide a much-needed safety net for the most vulnerable. The recent revision of existing legislations into a comprehensive Code on Social Security, and the learnings from the pandemic, provide us with an opportunity to address some of these longstanding issues. A key drawback of the social security framework for unorganised sector workers, has been the stagnated and varied implementation of the laws. Looking ahead, certain key areas of interventions are outlined below.

### **Ensuring a minimum social security net for all workers irrespective of wage, enterprise size, and place of origin**

Not having a minimum social security net at the workplace, adds to the vulnerability of informal workers. The current eligibility criteria for an employee to be eligible for social security at workplace, is based on a minimum number of employees in the enterprise, and the amount of wage earned by the worker. Therefore, the existing policy provisions on social security, need to be re-examined to ensure a minimum nation-wide social protection floor that will be guaranteed to every worker. Also, from the perspective of migrant workers, it is all the more important that such a social security net be de-linked from the place of the worker's origin (their home state).

### **Need for a robust monitoring and enforcement mechanism to ensure compliance to labour legislations**

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-

Facilitator. While the Inspector could undertake surprise field-checks in case of possible violations, the Inspector-cum-Facilitator does not have this power. Their monitoring role is mostly limited to online audits. Additionally, they are now required to advise employers on how to efficiently comply with the laws. For enforcement to be effective, it needs to be implemented in a decentralised manner with strict monitoring.

### **Creating a common database of informal workers instead of the current scheme-specific ones**

An informal worker employed in the unorganised sector might be eligible for different types of social protection nets through multiple welfare scheme. Creating an integrated database of workers will not only help in optimum provisioning of benefits, but also streamline identification of potential beneficiaries for different schemes. Additionally, it will make the cumbersome process of applying to each scheme separately, furnishing different documents every time, easier for potential beneficiaries. This would definitely require application of Information and Communication Technology to create a robust and dynamic system of worker database that can be accessed by different government departments.

### **Streamlining registration process of informal workers and creating awareness about entitlements**

Registration of unorganised workers into different government schemes offering social security benefits has been quite low. This problem needs to be addressed from both a top-down and bottom-up approach. This means removing systemic roadblocks, creating monitoring and accountability mechanisms, and incentivising the registration of workers. A decentralised system of registration and service-delivery can improve the enrolment of eligible beneficiaries in different social protection schemes offered by government departments.

There are several systemic bottlenecks that make registering inefficient. For example, while the UWSSA envisioned a decentralised system to register unorganised workers, it did not put in place an enforcement mechanism for the same- there was no mechanism to hold the district administration accountable. The Code on Social Security, 2020 relies entirely on WFCs to register workers, without a clear accountability mechanism in

place. WFCs need to be buttressed, and the local government should be responsible for overlooking registration. Considerable effort also needs to go into awareness building of the casual wage earners on the different welfare schemes available to them, and how they can leverage these benefits. The labour unions and other civil society organisations can play an important role in this process by leveraging their networks.

### **Moving beyond direct employer-employee relationships**

Most of the social security provisions available at present are applicable to those workers who have a clear employer-employee relationship. For labour laws to be inclusive, as the 20th ICLS also notes, it is vital that informal workers with informal employment relationships are included. This means moving beyond the traditional conceptions of work which rely on stable employee-employer associations. With respect to gig economy workers, now recognised under the Code on Social Security, 2020, it is aggregators (for example, Uber or Zomato) that function as employers.

Such employer-equivalents are not always easy to identify for different types of informal workers. Judy Fudge (2020), a professor of labour law, suggests that we look at the worker and her undertakings to address economic and social risks rather than just employment risks. For example, in the case of street vendors, since there is no employer that controls their labour market transactions and space of work, we need to think of functional substitutes- may be the municipality where they work, can be a potential replacement.

**Summing up**, such interventions will be important in addressing the limited reach and scope of social protection for informal workers in India at present. It is imperative to recognise 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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