

NEED FOR COMPREHENSIVE INCOME SECURITY FRAMEWORK TOWARDS OLD AGE FOR INDIAN UNORGANIZED SECTOR: A GAP ANALYSIS

—Roopali Shekhawat* & Sandhya Kumari**

***A**bstract—Social Security includes the provision of income as well as health care support for those unable to support themselves. This research deals with the aspect of income security only. Income security means a level of income (actual, perceived and expected) which enables an individual to meet his/her present and future needs during both working and non-working life. It is even more important that income security is provided in old age because of the reduced capabilities of an individual to earn a living beyond a certain age. India's existing income security framework includes provisions and schemes like Employee Provident Fund, Employee State Insurance, Atal Pension Yojana and the National Social Assistance Program. However, there are certain areas in respect to which the current framework fails to deliver, such as minimum wages, proper utilization of funds and implementation of programs etc. In this background, the proposed paper aims to examine the coverage of India's income security framework for the unorganized sector workers towards their old age and find gaps. The paper includes an introduction to the concept of income security, the challenges of old age, an analysis of the contributory and non-contributory income security framework of the country and the limitations of the said framework. The research is based on the hypothesis that India's existing income security framework is inadequate to meet the needs of the growing elderly population belonging*

* Assistant Professor & Research Scholar, School of Law, Galgotias University, Greater Noida, Gautam Buddha Nagar, Uttar Pradesh <rshekhawat1910@gmail.com>.

** PhD & Professor (Law), School of Law, Galgotias University, Greater Noida, Gautam Buddha Nagar, Uttar Pradesh.

to the unorganized sector. In pursuit of this doctrinal research, the researcher has relied upon newspaper articles, research papers, statistical data, case laws and other existing literature pertinent to the subject.

Keywords: Social Security, Income Security, Unorganized Sector, Old Age, Government Schemes.

I. INTRODUCTION

The falling growth rate of the population and higher life expectancy are general phenomena as a country develops. It can be attributed to several socio-economic reasons, like higher levels of education, particularly among women, increased participation of men and women in the labour market, changed lifestyle choices of many people inclining towards late marriages or smaller families¹, better healthcare infrastructure and increased capacity of the people to avail the same². Lower population growth rate and increased life expectancy, together, leads to demographic changes in a country such as an increase in the elderly population. India has been going through the aforesaid phenomenon since 1961. The World Bank data reflects a constant decline in India's population growth rate since last few decades as shown in table I³. Notably, many Indian States have registered population growth rates even below the total fertility rate⁴ (TFR) of 2.1 which is understood as the replacement level. It is the minimum number of births per women necessary for the population to replace itself after taking into consideration factors like infant mortalities and skewed sex ratio. The population starts declining below replacement level.

Table I: India's population growth rate

<i>Year</i>	<i>Population growth rate</i>
1965	2.24
1970	2.21

¹ Geeta Nargund, *Declining Birth Rate in Developed Countries: A Radical Policy Re-Think is Required*, 1 *ObGyn*, 191-193 (2009).

² Goran Miladinov, *Socioeconomic Development and Life Expectancy Relationship: Evidence from the EU Accession Candidate Countries*, 76, *Genus*, Springer Open 2-4 (2020).

³ THE WORLD BANK DATA, <https://data.worldbank.org/indicator/SP.POP.GROW?locations=IN> (last visited on Mar. 23, 2023).

⁴ Opinion, *A Crisis That's Not*, *LIVEMINT* Dec.13, 2020, <https://www.livemint.com/opinion/quick-edit/a-crisis-that-s-not-11607875561034.html>.

Year	Population growth rate
1975	2.24
1980	2.26
1985	2.25
1990	2.14
1995	1.99
2000	1.82
2005	1.60
2010	1.38
2015	1.19
2020	0.96
2021	0.79

Correspondingly, the average life expectancy of the country has also increased to 70.42 at present in 2023 from 35.21 in 1950⁵. In view of the such demographic changes, Indian elderly population is projected to increase to around 194 million in the year 2031 as depicted in table II⁶. Accordingly, the elderly population would be around 13.1% of the total Indian population⁷. The 2050 projection of elderly in the country stands at over 319 million⁸.

Table II: Elderly Population Census and Projections

Census Year	Population (in millions)
Census 1961	24.7
Census 1971	32.7
Census 1981	43.2
Census 1991	56.7
Census 2001	76.6
Census 2011	103.8
Census 2021 (Projections)	137.9
Census 2031 (Projections)	193.8

⁵ MACROTRENDS, <https://www.macrotrends.net/countries/IND/india/life-expectancy> (last visited on Mar. 24, 2023).

⁶ CENSUS OF INDIA, THE REPORT OF THE TECHNICAL GROUP ON POPULATION PROJECTIONS FOR INDIA AND STATES 2011-2036, NCP, MHFW (2020), <https://ruralindiaonline.org/en/library/resource/population-projections-for-india-and-states-2011-2036/#:~:text=The%20population%20of%20India%20is,463%20persons%20per%20square%20kilometre> (last visited on Mar. 24, 2023).

⁷ NSSO REPORT, ELDERLY IN INDIA 2021 — PEOPLE'S ARCHIVE OF RURAL INDIA, MINISTRY OF STATISTICS AND PROGRAM IMPLEMENTATION, NATIONAL STATISTICAL OFFICE, GOI.

⁸ Special Correspondent, *Number of India's Elderly to Triple by 2050*, THE HINDU, Jan. 7, 2021, <https://www.thehindu.com/news/national/number-of-indias-elderly-to-triple-by-2050/article33515101.ece> (last visited on Mar. 24, 2023).

II. OLD AGE: CHALLENGES AND NEEDS

Old age brings about a challenge with the physical and mental faculties for everyone. It becomes difficult for an individual to not only perform routine activities but to also earn a decent living for oneself or family⁹. This is why, after retirement from work, it is expected of people to rely upon past savings and investments, retirement pensions/annuities out of corpus generated throughout active working life, family/community support or State sponsored support for their financial needs. However, not everyone is able to achieve such income support, especially those belonging to the unorganized sector. For example, in India, nearly two-third of the elderly people live in rural areas and nearly half of the total elderly population is in the clutches of poverty¹⁰.

Therefore, there is a need for countries with rising number of elderlies to have a robust social security framework¹¹. Social security broadly means freedom from wants and distress caused by interruption, reduction, or stoppage of income¹². It includes various branches of benefits including income, healthcare, maternity, employment injury, and unemployment.

Based on the aforesaid discussion, this research aims to examine the coverage of India's income security framework in general and particularly for the unorganized sector workers towards their old age and find gaps therein. The statement of problem of the research is that the existing income security framework of India fails to deliver in certain areas, especially in context of the unorganized sector. The paper includes an introduction to income security, an overview of unorganized sector, an analysis of the contributory and non-contributory income security framework of the country and the limitations of the said framework. This research is limited to the income security needs only of the elderly and excludes other branches of social security. The researcher has relied upon newspaper articles, research papers, statistical data, case-laws, government reports and other existing literature pertinent to the subject in this doctrinal research.

⁹ *D.S. Nakara v. Union of India*, (1983) 1 SCC 305: AIR 1983 SC 130.

¹⁰ Subhojit Dey, Devaki Nambiar, J.K. Lakshmi, Kabir Sheikh, and K. Srinath Reddy, *Health of the Elderly in India: Challenges of Access and Affordability*, AGING IN ASIA: FINDINGS FROM NEW AND EMERGING DATA INITIATIVES, (National Academies Press 2012).

¹¹ ILO, *Social Security and Ageing Populations in Developing Countries*, (May 1, 2011), https://www.ilo.org/global/publications/world-of-work-magazine/articles/WCMS_155304/lang--en/index.htm (last visited on Mar. 24, 2023).

¹² V.G.GOSWAMI, LABOUR AND INDUSTRIAL LAWS, 14 (CLA 2015).

III. UNDERSTANDING INCOME SECURITY IN REFERENCE TO LABOUR MARKET PARTICIPATION

Income security has been explained by the International Labour Organization (ILO) as the basic level of earned, assured, or expected income which is adequate to the actual or relative needs of an individual¹³. Further, it also takes into consideration the expectation of improvement or deterioration in the present income level as well as that of the future. In other words, it can be said that income security intends to provide a basic level of income which ensures a dignified and decent life for everyone¹⁴. As far as the concept of absolute and relative needs is concerned, absolute needs are the basic survival needs while relative needs depend upon various factors such as the levels of poverty, income inequality, education levels of the population etc. The concept of relativity also affects the extent of support required by the elderly in any country. The higher the level of development of a country, the lower the extent of income security required for the vulnerable sections and vice-versa. This is why there are two approaches to social security—promotion-based and protection based¹⁵. Translating these approaches to income security, it can be said that while promotion-based income security can be achieved through the overall economic development of the country, the protection-based approach requires specific programs, laws and legislations targeted towards providing income security.

The income security of an individual during old age depends largely on the duration and type of the gainful working life of an individual. Based on this, the economically active population can be broadly divided into employed and self-employed categories. ILO and Organisation for Economic Co-operation and Development (OECD) characterize self-employment as the absence of legal subordination and accountability as exists between a direct or indirect employee and the employer¹⁶. Therefore, self-employed individuals include everyone outside the direct or indirect employer-employee relationship including landholding agricultural farmers, individuals running their own work like independent vendors, manufacturers, and service providers.

Employed individuals, on the other hand, can be divided into those employed in the organized sector and those belonging to the unorganized sector. Employing unorganized sector workers is a very convenient way

¹³ INCOME SECURITY INDEX, www.ilo.org (last visited on Sep. 4 2022).

¹⁴ *Consumer Education & Research Centre v. Union of India*, (1995) 3 SCC 42.

¹⁵ EHTISHAM AHMAD, J. DREZE, J. HILLS, AMARTYA SEN, *SOCIAL SECURITY IN DEVELOPING COUNTRIES*, 3 (Oxford University Press 1991).

¹⁶ Diego Coletto and Roberto Pedersini, *SELF EMPLOYED WORKERS: INDUSTRIAL RELATIONS AND WORKING CONDITION*, EUROFOUND (Mar. 1, 2009), <https://www.eurofound.europa.eu/publications/report/2009/self-employed-workers-industrial-relations-and-working-conditions> (last visited on Mar, 24, 2023).

for employers to get cheap labour¹⁷. 93% of India's population is engaged in unorganised sector¹⁸. They are mostly engaged in the agricultural sector (approximately 90%) and activities such as trade, transport, construction, and manufacturing. Economically, the maximum share of unorganized sector income comes from agriculture, trade, hotels and restaurants and manufacturing¹⁹. The employment data of 2017-18 suggested the total number of unorganized sector employees at around 410 million. Out of this, 370 million are in the informal and 40 million in formal sector²⁰. Unorganized sector is also referred to as informal sector, especially internationally²¹. However, in India, the term 'informal' is used in a different context. This has been highlighted by the National Commission on Enterprise in Unorganized Sector (NCEUS) which defines unorganized sector as enterprises employing less than ten total workers. NCEUS further explains unorganized sector workers as those engaged in the unorganised enterprises or domestic work, barring regular workers having social security benefits, and the workers employed in the organized sector without employment/ social security related benefits granted by the employers. Therefore, there can be formal or informal employees in both organized or unorganized sector. Accordingly, for clarity and uniformity, the term unorganized sector has been used in the research even for international references. Also, for the ease of understanding, the term 'employee' has been used for everyone falling within the traditional employee-employer relationship irrespective of the sector. Those employed in the organized sector are referred to as organized sector employees and those outside are referred to as unorganized sector employees. Therefore, the scope of the term 'unorganized sector' in this research includes unorganized sector workers, daily wage earners²², building and construction workers, domestic helps and everyone not falling within traditional employer-employee relationship such as the self-employed persons. Further, due to increasing in formalization of organized sectors there are many contractual employees employed in the organized sector. Since, such employees do not receive complete protection in terms of income security as received by other organized sector employees, they are also included in the unorganized sector²³.

¹⁷ Saytam Mishra, *Social Security for Unorganised Workers in India*, 53(2) J. SOC. SCI, 74 (2017).

¹⁸ MINISTRY OF LABOUR AND EMPLOYMENT, <https://labour.gov.in/unorganized-workers> (last visited on Aug. 30, 2022).

¹⁹ A.C. Kulshreshta, *Measuring the Unorganized Sector in India*, 131 REV. INCOME WEALTH, (2011).

²⁰ K.P. Kannan, *Social Security in the Lockdown: A Time to Revisit the NCEUS Recommendations*, 63 INDIAN J. LABOUR ECON. 139, 139-144 (2020).

²¹ REPORT ON CONDITIONS OF WORK AND PROMOTION OF LIVELIHOODS IN THE UNORGANISED SECTOR, NCEUS (2007).

²² Vaibhav Raaj, *SOCIAL SECURITY FOR UNORGANISED WORKERS IN INDIA*, ACTION AID CLUB (2019), <https://www.actionaidindia.org/wp-content/uploads/2019/05/Social-Security.pdf> (last visited on Mar, 24, 2023).

²³ Prasanna Mohanty, *Labour Reforms: Contractual Workers' Hiring on Rise in Organised Sector, Is Informal the New Formal?* BUSINESS TODAY, Jul. 19, 2019.

There are few major characteristics of unorganized sector such as contractual, casual or seasonal nature of employment, lack of labour welfare provisions or social security measures, absence of worker rights, no bargaining power, no job security, non-uniform or difficult working conditions and no skill or education related entry level criteria²⁴. As per the Periodic Labor Force Survey 2017-18 report, there is no job contract for 71% of the regular/salaried employees in the unorganized sector. Also, 49.6% of them are unable to avail any social security scheme due to lack of qualification. The onslaught of covid-19 worsened the condition of workers, 65-80% of whom did not have social protection which was aggravated by the tripling of the urban unemployment rate²⁵. Therefore, unlike organized sector employees, a major issue revolves around the income security during old age for those engaged in the unorganized sector²⁶.

The next section deals with the overall Indian legislative and policy income security framework following which the challenges with the same will be discussed.

IV. INDIAN INCOME SECURITY FRAMEWORK THROUGH CONTRIBUTORY AND NON- CONTRIBUTORY SCHEMES

Contributory schemes are those which require a certain amount of contribution from the beneficiary to be eligible for the benefit. The non-contributory schemes, on the other hand, are universal in nature and are not related to an individual's contribution to the social security pool of funds. At present, income security is provided in India through a combination of contributory and non-contributory systems.

A. Contributory Framework

- i. National Pension Scheme:** Pension is a major component of contributory framework of income security as it entails allocating a certain amount of fund during working life towards future annuity after retirement from work. While employed individuals make this allocation from the salary, others can do the same from their earnings made otherwise. Income security provisions for employed individuals further vary for government and private sector employees. This is why there exists a raging debate about the old and the new pension scheme. Government

²⁴ Muna Kalyani, *Indian Informal Sector – An Analysis*, IJMSR, 4(1), 81(2016).

²⁵ Franziska Ohnsorge and Shu Yu, *THE LONG SHADOW OF INFORMALITY: CHALLENGES AND POLICIES*, World Bank Group (2022), <https://thedocs.worldbank.org/en/doc/37511318c092e6fd4ca3c-60f0af0bea3-0350012021/original/Informal-economy-full-report.pdf> (last visited on Mar. 24, 2023).

²⁶ *National Domestic Workers Welfare Trust v. State of Jharkhand*, 2013 SCC OnLine Jhar 1504.

sector employees appointed prior to 2004 fall under the old pension scheme which was a defined benefit non-contributory scheme under which employees received a pension amounting to half of last drawn salary after retirement. This non-contributory defined benefit scheme despite incurring a huge burden on the exchequer was failing to provide a robust system of income security.²⁷ Therefore, a committee was instituted in the year 1998 called Committee for Old Age Social and Income Security (OASIS). The committee recommended an institutionalized contributory system of social security. Resultantly, from the year 2004, the Central Civil Services Pension system was replaced with the National Pension System (NPS) or new pension scheme for all central and state government employees²⁸.

As against its predecessor, NPS is a voluntary defined contribution scheme wherein the contributions to be made by the beneficiaries are predefined. Also, the amount contributed by the beneficiaries is invested in the capital market and is managed by professional fund managers.²⁹ Governed by the Pension Fund Regulatory Authority of India (PFRDA), NPS was opened for all citizens of the country in the year 2009 on voluntary basis. Another version of NPS called NPS-Lite was introduced in April 2010 for meeting the income security needs of the economically weaker section of the society or in other words, those engaged in the unorganized sector. Thereafter, another addition was made to the NPS in the form of NPS Corporate Sector Model to make NPS accessible in the private sector as well by customizing the same as per their requirements.³⁰

- ii. Employee Provident Fund and Pension Scheme:** Employee Provident Fund and Miscellaneous Provisions Act, 1952 (EPFMA) deals with income security for private sector employees in the organized sector in India. Establishments employing 20 or more persons fall under the purview of EPFMA in addition to those which are notified by the government or those which seek its voluntary application. Section 5 of this Act provides for the constitution of the Central Board of Trustees to administer the three schemes functioning under the Act namely - the Employee's Provident Fund scheme, Employee's Pension Fund Scheme and the Employee's Deposit Linked Insurance Scheme. Collectively,

²⁷ Renuka Sane and Ajay Shah, *Civil Service and Military Pensions in India*, (NIPFP New Delhi, Working Paper No. 2011-91,2011), https://www.nipfp.org.in/media/medialibrary/2013/04/wp_2011_91.pdf (last visited on Mar, 24, 2023).

²⁸ Renuka Sane and Susan Thomas, *The Way Forward for India's National Pension System*, IGIDR, Working paper No. 2 (2014), <http://www.igidr.ac.in/pdf/publication/WP-2014-022.pdf>.

²⁹ Vani Kamath and Roopali Patil, *Cost Benefit Analysis of National Pension Scheme* 8 (3), IJM, 156, 156–158 (2017) (last visited on Mar, 24, 2023).

³⁰ NATIONAL PENSION SYSTEM, <https://www.india.gov.in/spotlight/national-pension-system-retirement-plan-all>, (last visited on Mar. 31, 2023).

these schemes cater to the income security (through provident fund and pension) and insurance needs of the employees³¹.

Employees belonging to establishments where the Act is applicable are eligible to contribute a sum towards their income security after retirement. The employer is also required to add to the employee's contribution. At present, a sum of 12% or 10% of salary (sum of basic wages, dearness allowance and retention allowance), depending upon type of establishment, is contributed by the employee and an equal contribution is made by the employer. While the whole of employee's contribution goes to the provident fund, 8.33% of the employee's salary from the employer's contribution is set aside for employee's pension scheme and rest for the provident fund scheme. In addition to this, the government also adds 1.16% of employee's salary to the employee's pension scheme. Earlier, the salary was capped at Rs. 15,000 for 8.33% pension contribution. However, Employees' Pension (Amendment) Scheme, 2014 allowed for the contribution to be calculated on actual salary of employees instead of the earlier upper limit of Rs. 15000. This has increased the pension amount receivable for higher salaried individuals. The employee also receives an annual interest on the amount deposited with the Employee Provident Fund Organization (EPFO). As per the Annual Report of 2019-20, EPFO is the largest social security organization in the world maintaining 24.77 crore accounts belonging to the members.

iii. Employee State Insurance Act, 1948 (ESI): The objective of ESI Act, 1948 is to provide for the needs of the employees in case of sickness, maternity, employment injury and other such matters. The applicability of this Act is wider as it covers all the non-seasonal factories except those government-controlled factories employees of which receive other benefits corresponding to those provided by this Act. The Act has mandated the constitution of Employee State Insurance Corporation, Standing Committee and the Medical Council for providing specific benefits to the insured employees. The contributions made by the employee and the employer under the Act is utilized to provide benefits such as periodical payments in cases of sickness, maternity or pregnancy, and employment related disability. Additionally, there are provisions for periodical payments to the dependents of an employee who dies due to employment related causes, for the medical treatment of insured employee and dependents, if applicable, along with the payment for funeral expenditures of the employee.³²

iv. The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (BOCW Act) and BOCW Cess Act, 1996: The BOCW Act was enacted with an objective to provide relief to the building and construction workers through

³¹ EPFO, <https://www.epfindia.gov.in/> (last visited on Dec. 25, 2022).

³² ESIC, <https://www.esic.nic.in/esi-act> (last visited on Dec. 2, 2022).

provisions of welfare fund and the Board. Construction workers registered under the Act are eligible to contribute a certain amount every month to the fund to be utilized for their welfare benefits. The benefits include assistance for sickness and accident relief, pension after attaining the age of sixty, construction of house loans, children's education support, maternity benefit among other forms of welfare activities. Various States such as Delhi and Kerela have established welfare boards under the Act to protect the interest of such workers. Additionally, BOCW Cess Act, 1996 levies a cess on construction related works and the amount collected is utilized for the welfare of such workers.

- v. **Unorganized Sector Workers Social Security Act, 2008 (USWSSA):** Additionally, there are legislations like USWSSA which have been enacted by the Government for those unorganized workers left out of the aforesaid regime. This Act empowers the government to launch programs and schemes for providing old age protection to the unorganized workers through benefits such as healthcare, maternity, insurance (life or disability), provident fund, skill development, children's education, protection in case of employment injury or death, and others required to ensure a decent standard of living for unorganized workers in their old age. The Act further provides for the establishment of State and National Advisory Boards for Social Security for ensuring proper implementation of the aforesaid schemes. The Act requires registration of workers along with establishment of facilitation centres for their assistance and awareness creation.
- vi. **Code of Social Security, 2020:** Another attempt has been made recently to streamline the labour laws in India through the new labour code. It comprises of four distinct legislations dealing with different aspects of labour welfare. Code of Social Security, 2020 deals with the aspect of income security of employees, self-employed individuals and various other categories of workers such as gig or platform workers³³. This Act received President's assent on September 28, 2020, but is yet to be enforced. The Code of Social Security consolidates the social security-based legal framework of the country by subsuming nine existing legislations such as ESIA, EPFMPA, USWSSA and others relating to employee compensation, maternity benefit and gratuity among others.
- vii. **Government Policies and Programs:** In addition to the aforesaid legislations, there are certain voluntary contributory schemes like Atal Pension Yojna, Pradhan Mantri Shram Yogi Maan-Dhan Yojana, Pradhan Mantri Jeevan Jyoti Yojana (PMJJBY) and Pradhan Mantri Vaya Vandana Yojana (PMVVY). Table III provides a comparative overview of various such schemes based on information obtained from their government websites:

³³ Code on Social Security, 2020, No. 36, Acts of Parliament, 2020 (India).

S. No.	Scheme	Subscriber Age Bracket (yr.)	Objective	Benefit	Contribution
	Atal Pension Yojna (APY)	18-40	Retirement Pension	Rs. 1000 to Rs. 5000 monthly	monthly Rs. 42 to Rs. 210
	Pradhan Mantri Suraksha Bima Yojana (PMSBY)	18-70	Accidental Cover	Rs. 2 lacs (one-time)	Rs. 20 per annum
	Pradhan Mantri Jeevan Jyoti Yojana (PMJJBY)	18-50	Life Insurance	Rs. 2 lacs (one-time)	Rs. 436 per annum
	NPS for Traders and The Self-employed Persons	18-40	Income Security	Rs. 3000 monthly	monthly Rs. 55 to Rs. 200
	PM Shram Yogi Maan-Dhan Yojana (PM-SYM) (Old Age Protection)	18-40	Retirement Pension for the unorganized workers	Rs. 3000 monthly	monthly Rs. 55 to Rs. 200
	Pradhan Mantri Vaya Vandana Yojana (PNNVVY)	60 and above	Pension plan for elderly	7.4% p.a. assured return	Up to Rs. 15 Lacs

These voluntary programs aim to provide an additional contributory income security cover, especially for those individuals who may not be able to avail the benefit of the existing legislative framework.

V. NON-CONTRIBUTORY FRAMEWORK OF INCOME SECURITY

NATIONAL SOCIAL ASSISTANCE PROGRAM (NSAP)

NSAP is India's major non-contributory social security programs. It has a wide coverage with currently 2,95,49,966 beneficiaries as per its website³⁴. NSAP has been discussed at length in the following section.

Initiated in the year 1995, NSAP originally consisted of National Old Age Pension Scheme (NOAPS) (later rechristened as Indira Gandhi NOAPS), National Family Benefit Scheme (NFBS) and National Maternity Benefit Scheme (NMBS). Under the NMBS, a grant of Rs.300 was earmarked for the first and the second live pregnancy to the beneficiary. NMBS was transferred to the Department of Family Welfare w.e.f. from April 01, 2001 to be made a part of the population stabilization program. To fill the gaps left in the regime regarding food security of those elderly left out of the NOAPS, the Annapurna scheme was launched on April 01, 2000. This scheme entails providing 10 kgs of food grains free of cost to the beneficiary. However, States were entrusted

³⁴ NATIONAL SOCIAL ASSISTANCE PROGRAM, <https://nsap.nic.in/> (last visited on Mar. 5, 2023).

with the implementation of NSAP and Annapurna with central financial aid from the year 2002-03 after their transfer to the State plans. In the year 2009, two additional pension schemes were launched named Indira Gandhi National Widow Pension Scheme (IGNWPS) and Indira Gandhi National Disability Pension Scheme (IGNDPS).

Therefore, after undergoing many changes in structure over the years, the current structure of NSAP is as presented in Table IV:

S. No.	Scheme	Objective	Requirement and Age Bracket	Benefit
	IGNOAPS	Retirement Pension for old age persons	Below poverty line persons above the age of 60	pension of Rs. 200/- per month up to 79 years of age and Rs. 500/- per month thereafter.
	NFBS	Assistance on demise of primary earning member aged between 18 and 64 years	Below poverty line household	Rs. 10,000 per month
	IGNDPS	Disability assistance	Severely and multiply disabled BPL persons aged 18-59 years	pension of Rs. 200/- per month
	IGNWPS	Widow pension	BPL widows aged 40-59	monthly pension of Rs. 200/-.
	Annapurna	Food Security	senior citizens who remained uncovered under NOAPS.	10 kg of food grains per month

As can be seen from the table, under NSAP, IGNOAPS is the scheme which directly aims at providing income support to the below-poverty-line elderly. Below poverty line beneficiaries are ascertained from the list prepared by governments as per the Ministry of Rural Development (MORD) guidelines regarding the BPL Census 2002³⁵.

VI. GAPS IN THE EXISTING INCOME SECURITY FRAMEWORK OF INDIA TOWARDS OLD AGE FOR THE UNORGANIZED SECTOR

As discussed above, there are in place several schemes, laws, and programs towards income security in old age. However, most of these policies or laws benefit the privileged employees belonging to the organized sector. Recent proposals such as the revival of the old pension scheme and One Rank One

³⁵ MYSCHEME, <https://www.myscheme.gov.in/schemes/nsap-igndps> (last visited on Mar. 6, 2023).

Pension for Defence personnel also further the interests of few and not all. Those who fail to avail themselves of the existing framework due to the unorganized nature of their work remain exposed to a great extent. This is because of certain planning and implementation-related challenges along the way. Some of them are as discussed below:

1. The benefits offered by the schemes under the National Social Assistance Program and other schemes are as low as Rs. 200 and move up to Rs. 5,000 per month. These amounts can hardly be said to be in alignment with the established National Floor Level Minimum Wage (NFLMW) or the minimum amount of funds which an individual requires to lead a life of dignity and self-sufficiency. For decades, the government has been attempting to reach the appropriate minimum wage. Therefore, many committees have also been formed in this regard. However, regardless of noteworthy recommendations from the Satpathy Committee³⁶, insubstantial changes have been made to the minimum wage rate of workers belonging to various categories³⁷. The post covid-19 era saw a further decline in the average income of unorganized sector workers with many such workers falling below the minimum wage levels³⁸.
2. Various government schemes have age brackets for applicability such as Indira Gandhi National Widow Pension Scheme (IGNWPS) which covers widows aged 40-59. Similarly, there are age brackets for PM-SYM (18-40), PMJJY (18-50) and NPS (18-40) for Traders and Self-Employed Persons. There is lack of clarity in the rationale for determining such age brackets and as to the income security coverage of the population excluded from such age brackets.
3. Generally, criteria are laid down for the establishments which fall under the purview of specific legislations. For instance, the ESIC Act is applicable on all factories. However, the definition of factory has been laid down in the Factories Act as those premises which employ minimum ten or twenty employees depending upon mechanized or non-mechanized manufacturing process. Because of this, many enterprises continue to function on small scale to avoid legal regulations, thereby excluding many potential beneficiaries. Further, legislations like Occupational Safety Hazard and Working Conditions Code, although not implemented yet, narrow the scope of organized sector by

³⁶ REPORT OF THE EXPERT COMMITTEE ON DETERMINING THE METHODOLOGY FOR FIXING THE NATIONAL MINIMUM WAGES, MLE, GOI (Jan. 2019) https://labour.gov.in/sites/default/files/committee_on_determination_of_methodology.pdf (last visited on Mar. 24, 2023).

³⁷ File No. 1/5(1-7)/2023-LS-II, Office of the Chief Labour Commissioner (Ministry of Labour & Employment, 03 Apr. 2023) available at - <https://clc.gov.in/clc/node/720> (last visited on Oct. 25, 2023).

³⁸ CSE, STATE OF WORKING INDIA 2021: ONE YEAR OF COVID-19, Azim Premji University, (2021), https://cse.azimpremjiuniversity.edu.in/wp-content/uploads/2021/05/State_of_Working_India_2021-One_year_of_Covid-19.pdf (last visited on Oct. 25, 2023).

increasing the number of workers required in an enterprise to be covered under the law. Therefore, instead of organizing the unorganized sector, there is a reverse movement towards expanding the coverage of unorganized sector.

4. The welfare funds created under the statutes such as Building and Construction Workers (BOCW) Act, 1996 fail to provide actual income security support due to resource mismanagement³⁹. The central labour welfare funds also fail to serve the purpose fully because of bureaucratic, administrative and implementational problems such as lack of identification of proper beneficiaries⁴⁰. There have also been instances of misuse of welfare funds by many states such as Maharashtra, Himachal Pradesh and Uttarakhand by spending the fund in distribution of freebies.⁴¹
5. Limited awareness levels along with the lack of basic knowledge among people regarding the manner of availing the schemes and programs is a challenge which needs to be addressed. The situation is worsened by the absence of appropriate infrastructure and trained personnel to ensure proper and sufficient outreach towards unorganized sector employees regarding registration under various schemes, assistance and follow up. Rampant corruption and inefficiency in execution are also reasons why many schemes, though promising on paper, fail to deliver results on ground.⁴²
6. High levels of illiteracy, especially digital literacy, makes it difficult to account for unorganized sector workers and create a proper database. Aadhar based digital verification and other online formalities which are difficult to comprehend and perform for uneducated or under exposed individuals act as other hinderances in the proper implementation of various schemes and laws.
7. The organized sector employees already have a reliable framework of income security in place. On top of that, few State governments have decided to return to the old pension scheme for government employees which is a defined benefit scheme without any contribution. This is being touted as bad economics by many experts who suggest that

³⁹ Deval Desai and Shalini Randeria, *Unfreezing Unspent Social Special-Purpose Funds for the Covid-19 Crisis: Critical Reflections from India*, 136, WORLD DEV. (2020).

⁴⁰ K.P. Kannan, THE LONG ROAD TO SOCIAL SECURITY: ASSESSING THE IMPLEMENTATION OF NATIONAL SOCIAL SECURITY INITIATIVES FOR THE WORKING POOR IN INDIA, CDS Trivendrum Paper No. 2 (2010), <http://www.bibalex.org/Search4Dev/files/387441/225033.pdf> (last visited on Mar. 24, 2023).

⁴¹ Aanchal Magazine, *Construction Workers: To Avoid Welfare Fund Misuse, States Told to Use DBT, Halt In-Kind Benefit*, THE INDIAN EXPRESS, (Mar. 24, 2021) <https://indianexpress.com/article/business/construction-workers-to-avoid-welfare-fund-misuse-states-told-to-use-dbt-halt-in-kind-benefit-7241962/> (last visited on Mar. 24, 2023).

⁴² Rajasekhar Durgam, Social Security for Unorganised workers in India: Issues and Challenges, (CSS, Surat, 2020).

this would take funds away from other important matters like education, healthcare and fulfilling income security needs of the underprivileged persons, especially those belonging to the unorganized sector⁴³. Additionally, rising defence pension bills and execution of policies like ‘One Rank One Pension’ show that benefits are often granted to economically better-off people instead of focusing on strengthening the income security framework of unorganized sector workers⁴⁴.

VII. CONCLUSION

India is experiencing a rise in the number of elderly due to falling population growth rates and increasing life expectancy of people. Resultantly, it is important that appropriate income support is provided to people in their old age because of their reduced physical and mental faculties. A reliable system of income security towards old age is required in the country which encompasses both the present working life of people and their old age. This can be achieved through a balanced outlook combining both promotional and protective approaches to income security. While the promotional approach should include the creation of ample work opportunities for people and developing their capabilities to avail such opportunities, protection-based income security should be used to fill the gaps left by the former approach. This combination approach is also important for bringing people to a certain level of economic sustainability at first and further providing them with a safety net to maintain that level.

Furthermore, based on the gaps discussed above, the researchers make certain suggestions for the government and the other stakeholders as discussed ahead. Firstly, timely increment of the NFLMW and alignment of the benefits received under various income security schemes with the said level. Secondly, widening the reach of existing policies by removing irrational conditions in the schemes such as the age bracket in IGNWPS. Thirdly, organizing the unorganized sector by gradually extending the applicability of certain enabling provisions on enterprises outside the purview of provisions such as the Factories Act, EPF&MP Act and ESI Act. Fourthly, properly allocating and utilizing the welfare funds towards safe and healthy working conditions and income security of workers such as unemployment allowance for the BOCW. Fifthly, better implementation of schemes and policies through infrastructural push along with training of the staff and awareness and handholding for the public, especially in the area of digitalization. Finally, better fiscal management by

⁴³ P. Vaidyanathan Iyer *Why the Old Pension Scheme is Both Bad Economics and Bad Politics*, THE INDIAN EXPRESS, (Nov. 17, 2022), <https://indianexpress.com/article/explained/old-pension-scheme-debate-economics-politics-explained-8272808/> (last visited on Mar. 24, 2023).

⁴⁴ Sushant Singh, *Explained: The Rising Defence Pension Bill*, THE INDIAN EXPRESS, (Feb. 6, 2020), <https://indianexpress.com/article/explained/simply-put-the-rising-defence-pension-bill-6253156/> (last visited on Mar. 24, 2023).

government through limiting the populist measures and spending on the issues concerning income security of the unorganized sector workers.

The role of other stakeholders like non-government organizations is also important which can be made by nodal agencies for spreading awareness, registration of beneficiaries and further handholding regarding various income security schemes towards old age. Employers outside the organized sector should be made more accountable towards the income security of their workers by facilitating and incentivizing voluntary compliance with the framework meant for the organized sector. Ultimately, the general public can play their role by ensuring safe and healthy working conditions and minimum wage for their domestic workers and connecting them with the nodal agencies for availing the appropriate schemes. These measures would go a long way to ensure a comprehensive framework of income security for the elderly in the country, especially for those belonging to the unorganized sector.