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National Pension Scheme, 2004: A Negative or Positive Component for Unorganized Sector in India with Special Reference to Pension Schemes

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I. Introduction:

In the era of Globalization and E-governance most of the developing countries, high rates of poverty and unemployment act as a deterrent to institute a pay-roll tax financed state pension arrangement for each and every citizen attaining old age. Perhaps, persistently instead, India has adopted a pension policy that largely hinges on financing through employer and employee participation having no universal social security system to protect the elderly against economic deprivation. This has however restricted the coverage to the organized sector workers denying the vast majority of the workforce in the unorganized sector. Broadly, the residual of the organized sector is referred to as the unorganized sector. Sometimes Unorganized sector is interchangeably used with the term the Informal sector (casual worker), although there exists a fine distinction between the two. No access to any formal system of old age economic security deplored the measurable conditions of workers under unorganized sectors. Additional motivation for reform comes from the fractured nature of the existing pension schemes, creating a sharp dichotomy between organized and unorganized sector labor force. The Present research paper highlights the limitations of the current structure of the pension system and brings some critical issues pertaining to reform through NPS,2004 and its Swavalamban Model of Pension.

II. Unorganized Sector-- A Brief Look:

In a study carried on by V.V.Giri institute of Labour, in India approximately 93%[3] of the total workforce is in the unorganized sector. Due

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[3]India .gov.in, National Portal of India ,(visited on 20.10.2013)

to globalization. workers, especially in the traditional and unorganized sectors, are alienated from the mainstream of the society in terms of welfare schemes, benefits and even just wages. Besides they are being subjected to exploitation due to lack of unionism, legal production and social security.
They are the most vulnerable as they do not have any bargaining power.
The people working in the unorganized sector are now being more considered as objects and machines to achieve the target of maximum production. Whenever and wherever human beings are placed as material means of production, they are treated, so to say, as instruments.
In India the organized sector refers to enterprises, government and private that are part of the official statistics that appear in budget documents and government reports. The unorganized sector covers everyone else, part time, casual and temporary workers, employees of small and micro business, domestic servants, rural laborers or sharecroppers etc.The unorganized workers have few legal protections. Women and child workers are subjected to severe exploitation. Most of them work from home at piece rates, rather than in factories or workplaces. They work long hours for little return. The workers in the unorganized sector are exploited in numerous ways like long hours of work without decent wage and security of the job and with no provision of support during contingencies like hospitalization and old age etc.Moreover, education of the children of the unorganized sector workers suffer since the income of the worker has hardly been able to provide one meal a day, leave alone nutritious meal. The voice of the workers in the unorganized sector is not heard, as at large they do not have collective bargaining capacity due to lack of organizations or unions Further at this time, the world economy is passing through the worst crisis of its kind and globalization. The bad signal is now spreading around the world and everybody has been affected by the impact of the recession and globalization, especially the consequences have been imparted on employment scenario.

II. I. Why so?

1. A large number of workers in the unorganized sectors are not aware of or not informed of various rights and facilities available to them. So they continue to be in the dark and are being exploited throughout. There are a number of unorganized sectors of work in the country and they are not prioritized and adequately responded to effectively.
2. No actuate social security system for unorganized workers . In the changing economy, a wide range of employment opportunities are available and at the same time there is also growing number of unemployment in the country. So there is a gap or a barrier between the demand and supply of jobs and job seekers.

3. At present in unorganized scenario somewhat facilitation work is taking place with the help of unions and Labour NGOs .But it is not done in a systematic way. It is over dependent on the leaders of the workers leaders take some initiatives in this line.
4. There is no Workers facilitation center in the country. Under the unions and union leadership we can identify the unorganized workers .This process is very difficult due to lack of direct relation between employer and employees, awareness and legal back up.

II. II. Key Labour Issues for Unorganized sectors

Lack of quality employment or under employment
Lack of employment
Large in Number
Seasonality of work
Work Place
Working Environment
Caste and Class Difference
Poor Skill and Technology
Lack of Political Support
Inadequacy of laws and legislation
Migration
Unequal distribution of money
Low wage rate
Gender discrimination in wage
Gender specific work
Lack of security
Indebtedness
Bonded labor (Dadan)
Social security and measures

II. III. Legal Protection and Unorganized Sectors in India

Recently (May 2009) government of India enacted the unorganized workers' social Security act 2008.The act gives provision of formation of National and State Social Security Boards which would have net work of District and Panchayat through workers' facilitation centers all over the Country. The Workers' Facilitation Center will be the main instrument for implementation of the Act [4]

[4] Chapter III of the unorganized workers' social Security act 2008.

The functions of WFC as follows:

1. The registration of workers should be the responsibility of the Workers Facilitation Center.
2. The function of Disputes Resolutions should be with the Workers Facilitation.
3. The Workers Facilitation Center should also have functions of increasing skill and productivity.
4 .According to the Act this workers facilitation center would be initiated by unions or labour NGOs. These will be recognized by state governments.

It is rightly true that when independent India's constitution was drafted, social security was specially included in List III to Schedule VII of the Constitution and it was made as the Concurrent responsibility of the central and state governments. The current mosaic of Indian laws on employment are a combination of India's history during its colonial heritage, India's Experiments with socialism, important human rights and the conventions and standards have emerged from the United Nations. The laws cover the right to work of one's choice, Right against discrimination, prohibition of child labor, fair and humane conditions of work, Social security, protection of wages, redressal of grievances, right to organize and form trade Unions, collective bargaining and participation in management.

III. Labour Laws in India:

Workmen's Compensation Act of 1923
Trade Unions Act of 1926
Payment of Wages Act of 1936
Industrial Employment (Standing orders) Act of 1946
Industrial Disputes Act of 1947
Minimum Wages Act of 1948
Industries (Regulation and Development) Act of 1951
Employees Provident Fund and Miscellaneous Provisions Act of 1952
Maternity Benefit Act of 1961
Payment of Bonus Act of 1965
The Building and Construction Workers Act (1996)
Payment of Gratuity Act of 1972
National Rural Employment Guarantee Act -2005 (MGNREGA).
Pension Schemes in India: Framework

IV. Traditional Concept:

Pension Policy in India has traditionally been based on financing through employer and employee participation. As a result, the coverage has been restricted to the organized sector and a vast majority of the workforce in the unorganized sector has been denied access to formal channels of old age financial support. Only about 12 per cent of the working population in India is covered by some form of retirement benefit scheme. Besides the problem of limited coverage, the existing mandatory and voluntary private pension system is characterized by limitations like fragmented regulatory framework, lack of individual choice and portability and lack of uniform standards. High incidence of administrative cost and low real rate of returns characterize the existing system, which has become unsustainable. Non-sustainability of the existing pension system is accentuated by the sharp increase in financial burden on the Government and the other employers on account of pension liabilities. The total pension liability on account of the Central Government employees has risen from 0.6% of GDP (at constant 2prices) in 1993-94 to 1.66% of GDP (at constant prices) in 2002-03 which may increase further by 2012-13.[5]

As a percentage of net tax revenue, the total pension liability has increased from 9.7% to12.68% during the same period. For the sub-national (State) Governments, the compound annual growth rate in pension expenditure during the period 1995-96 to 2000-01was 27.1 percent. As a percentage of revenue receipts, the pension expenditure of the States has increased from 5.4% in 1990-91 to over 10 percent in 2000-01.

V. Exisiting Schemes:

The pension schemes in operation in India currently can broadly be divided into the following categories:

The Civil Servants' Pension,
Employees' Provident Fund,
Employees' Pension Scheme,
Special Provident Funds,
New Pension Scheme (NPS),

NPS2004: Salient Features:

- The New Pension Scheme works on defined contribution basis and will have two tiers – Tier-I and II. Contribution to Tier-I is mandatory for all Government servants joining Government service

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[5] http://www.updatesindia.in/2013/09/Pension-bill-National-pension-scheme-features-advantages-disadvantages.html(Visited on 01.08.2013)

on or after 1-1-2004 (except the armed forces in the first stage), whereas Tier-II will be optional and at the discretion of Government servants.

- In Tier-I, a Government servant will have to make a contribution of 10% of his basic pay plus DA, which will be deducted from his salary bill every month by the PAO concerned. The Government will make an equal matching contribution. However, there will be no contribution from the Government in respect of individuals who are not Government employees.

- Tier-I contributions (and the investment returns) will be kept in a non-withdrawable Pension Tier-I Account. Tier-II contributions will be kept in a separate account that will be withdrawable at the option of the Government servant. Government will not make any contribution to Tier-II account.

- The existing provisions of Defined Benefit Pension and GPF would not be available to the new recruits in the central Government service, i.e. to the Government servants joining Government service on or after 1-1-2004.

- In order to implement the Scheme, there will be a Central Record Keeping Agency (CRA) and several Pension Fund Managers (PFM) to offer three categories of Schemes to Government servants, viz., options A,B and C based on the ratio of investment in fixed income instruments and equities. The participating entities (PFMs and CRA) would give out easily understood information about past performance, so that the individual would be able to make informed choices about which scheme to choose.

- An independent Pension Fund Regulatory and Development Authority (PFRDA) will regulate and develop the pension market.

- As an interim arrangement, till such time the Statutory PFRDA is set up, an interim PFRDA has been appointed by issuing an executive order by M/o Finance (DEA).

- Till the regular Central Record Keeping Agency and Pension Fund Managers are appointed and the accumulated balances under each individual account are transferred to them, such amounts representing the contributions made by the Government servants and

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the matching contribution made by the Government will be kept in the Public Account of India. This will be purely a temporary arrangement as announced by the Government.

- Tier-II will not be made operative during the interim period.

- A Government servant can exit at or after the age of 60 years from the Tier-I of the Scheme. At exit, it would be mandatory for him to invest 40 per cent of pension wealth to purchase an annuity (from an IRDA-regulated Life Insurance Company) which will provide for pension for the lifetime of the employee and his dependent parents/spouse. He would receive a lump-sum of the remaining pension wealth which he would be free to utilize in any manner. In the case of Government servants who leave the Scheme before attaining the age of 60, the mandatory annuitization would be 80% of the pension wealth.

The Pension Fund Regulatory and Development Authority Bill, 2011, was passed in the Lok Sabha on Wednesday,4th September2013 with official amendments. Some of the key amendments incorporated in the Bill based on the recommendations of the Standing Committee on Finance are as follows:

a) That the subscriber seeking minimum assured returns shall be allowed to opt for investing his funds in such scheme providing minimum assured returns as may be notified by the Authority;

b) Withdrawals will be permitted from the individual pension account subject to the conditions, such as, purpose, frequency and limits, as may be specified by the regulations;

c) The foreign investment in the pension sector at 26% or such percentage as may be approved for the Insurance Sector, whichever is higher;

d) At least one of the pension fund managers shall be from the public sector;

e) To establish a vibrant Pension Advisory Committee with representation from all major stakeholders to advise PFRDA on important matters of framing of regulations under the PFRDA Act. Beside above, the Bill would make the Pension Fund Regulatory and

Development Authority a statutory authority. Presently, it has non-statutory status. The NPS is based on the principle that "you save while you earn" especially for retirement and is mainly for those who have a regular income. This Bill would also provide subscribers a wide choice to invest their funds including for assured returns by opting for Government Bonds etc. as well as in other funds depending on their capacity to take risk.

The NPS has been made mandatory for all the Central Government employees (except armed forces) entering service with effect from 1.1.2004. Twenty six (26) States have already notified NPS for their employees.

NPS has been launched for all citizens of the country including un-orgnised sector workers, on voluntary basis, with effect from 1st May, 2009..In order to effectively invest and manage huge funds belonging to a large number of subscribers and to ensure the integrity of NPS, creation of a statutory PFRDA with well defined powers, duties and responsibilities is considered absolutely necessary and would benefit all NPS subscribers.

The PFRDA Bill authorizes the PFRDA to establish a Pension Advisory Committee by notification under Clause 44 of the PFRDA Bill, 2011. The object of the Pension Advisory Committee shall be to advise the Authority on matters relating to the making of the regulations under the PFRDA Act.

Market based returns and wide coverage based on several investment options in the pension sector will build up the confidence in the subscribers, whereas withdrawals for limited purposes from Tier-I pension account will be an incentive for them to join NPS.

Further, to encourage the people from the un-organised sector to voluntarily save for their retirement, the Government has launched the co-contributory pension scheme titled "Swavalamban Scheme" in the Budget of 2010-11.

Swavalamban Scheme And Unorganazed Sector in India:An Overview

The Scheme titled "Swavalamban" (means self reliance) covers workers of unorganized sector between the age of 18 to 55 years. This implies that any worker between the ages of 18-55 years can become a subscriber and is entitled for receiving pension at the age of 60 years. Upon attaining 60 years of age, subscribers will be able to withdraw 60 % of their contribution, while the 40% will be given as monthly annuity by LIC (Life Insurance Of India).

Ultra –low cost structure with no minimum amount required per annum or per contribution is another attractive part.Subscriber is free to choose the amount he/she wants to invest every year.

The Swavalamban scheme is essentially a contributory scheme which provides for a minimum monthly contribution of Rs 100 and a maximum annual contribution of Rs 12,000.

The Union government on its part shall contribute Rs 1000 per year.

The scheme shall be administered by the Pension Fund Regulatory and Development Authority (PFRD), which shall oversee the overall management, while the deposits shall be managed by private fund managers.

The private fund managers shall be able to invest only 15% of the total funds in equity markets while 85% of the total funds that is rest shall be invested in high quality fixed income securities such as Government Bond.

Eligible individuals in the **unorganized work** force can open an account through their Aggregators and get an Individual subscriber (NPS-Swwavalamban).

Account Subscriber can operate account from anywhere in the country,even with change of location employment or Aggregators variance.

VI. Issues, Challenges and Suggestions:

The pension fund will be invested as per the employee's choice. There are three categories where the investment will be done,these categories are:

- E Class: Here the investment would primarily be in Equity market instruments maily in index funds either BSE sensitive index or Nifty.
- G Class: Here the investment would be in Government securities like Indian or State Government bonds.
- C Class: Investment would be in non Government fixed income securities.

Though the fund manager will be of depositors choice however if no choice is given then upto 35 years of age the investment will be 50, 30 and 20% in E, C and G class respectively and as the age increases investment in G class will increase and after 55 years the auto choice will be 10, 10 and80%in E, C and G Class respectively.

The scheme treats all workers as a homogenous group: It defines unorganized workers as those who are either not currently employed by the central/ state government or by any other autonomous or public sector undertaking of central government and those who are currently not covered by any of the existing social security schemes. This definition while inclusive spans all categories of workers from self employed professionals to Rickshaw Pullers and Construction Workers.

The scheme does not appear to be tailored to consider the stratified nature of the conditions of work which begs the question of whether the scheme can be appropriate for such a large and heterogeneous group?

It assumes that workers will have the ability to save and contribute on a regular basis. This represents an important challenge given that one of the distinguishing features of the unorganized sector is irregularity of work which often impairs the ability to save. According to a report by NCEAR, the bottom half of the populations by income distribution are responsible for only 2% of the savings in India (2000). Moreover savings by the poor are also mostly of a short term nature and are stored in high liquidity.

Government is not taking responsibility for guaranteed returns in respect of pension.

It remains to be seen whether the scheme will be successful in promoting thrift and encouraging a shift from long term to short term savings. Even though it was mentioned the employees can select the fund managers, schemes etc, it was understood that this option was not at all given to the employees in some/most of the organizations.

Pension without guarantee is meaningless.

For workers to gain maximum benefit, it is necessary that the scheme be structured in ways such that the cost of participation is low, i.e. the scheme should be accessible to workers both geographically and in terms of simplicity of procedures.

NPS has several advantages like there is special concession in income tax however if one has already achieved 1 lakh ceiling through LIC and other investment, they will not have any advantage on tax. The return is expected to be good as compared to normal deposits as there are several investment modes.

The disadvantages include the infiltration of many companies with different virtually attractive offers which may not be in real and poor investors may fall in trap if they fail to select proper fund manager. Further the risk lies on employees. Thus by in no means it is secured and can be called old age income security. These are issues which are particularly relevant to workers employed in this sector, given their low levels of education and relative isolation from formal institutions and processes (especially financial institutions) (NCEUS REPORT, 2007) .How the government plans to address the gaps in accessibility remains to be seen. With optimistic hopes we should welcome this scheme in India.