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Securing today
and tomorrow



Social Security Policy for India

Social Security: Definition

Every person is faced with social problems and risks at some time in his life span due to risks associated with sickness, accident, unemployment, disability, maternity and old age. The Social Security Policies are intended to mitigate or provide cover the costs for these problems and risks faced by persons exposed to these situations.

Features of Social Security

- Most essential features of Social Security are –
 - (a) Mandatory / Non Optional
 - (b) government provided and
 - (c) provisions of entitlements and enforcements.
- Configured through Law
- Can be Taxpayer funded or Contribution funded or Employer funded (or combination of these)
- Aimed at providing means to the member, a means to handle risks and eventualities
- Procedural guarantees for complaints and appeals
- Components are as per ILO Reference : Social Security (Minimum Standards) Convention (no. 102)

Current Social Security Schemes in India

Fund Source	Examples	Eligibility
Taxpayer Funded	IGNOPS, AABY, IGNDPS, NFBS, RSBY	Select category of BPL
Health related, Taxpayer funded	Government Health Schemes	All citizen
Employer (Legislation based)	Maternity Benefit, Gratuity, Employee Compensation	Organised sector
Fund (Employer + Employee) – under law	EPF, EPS, EDLI ESIC Schemes	Organised Sector
Cess Based	Beedi Worker welfare schemes	Concerned workers
Voluntary	PMJJSY, PMSBY	Those who opt
States / Local bodies / Ministries	Old age pension, disabled pension, Bunkar Bima	Selected beneficiaries



Social Security in India: Problems and Issues

Problem and Issues in Social Security Policy

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- Multiplicity of Policies : Lack of comprehensive policy
- Many Agencies, Ministries, Governments
- Multiple Laws
- Limited Outreach of Schemes : Most of the population not covered
- Exclusion of Unorganised & informal sector
- Inadequate benefits (especially taxpayer funded schemes)
- Lack of resources in States' health system / Poor quality of health services

Problem and Issues in Social Security Policy

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- Poor compliance
- Poor Administrative structure for delivery & lack of capacities
- Unsystematic identification system
- Fragmentation – Multiple administering authorities
- Duplicity
- High Costs to companies
- Perverse incentives



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Past Studies / Commissions on Social Security Reform

Past Studies/Commissions on Social Security

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- Royal Commission on Labour 1931
- National Commission on Labour 1969
- National Commission on self employed women and women in unorganised sector 1989
- National Commission on Rural Labour 1991
- Second National Commission on Labour 2002
- National Commission for Enterprises in Unorganised Sector 2008
- Social Protection for a Changing India – WB 2011
- Social Protection Floor for India - ILO 2013
- Social Security Reform in India – Draft framework – ILO 2016



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Sh. A.B. Vajpayee (Prime Minister 1997-2004)

Recommendations of National Commission on Labour: NCL 2002

Integration of Fragmented Schemes

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- Integrated Comprehensive (set of) Scheme for Social Security through single legislation.
- One contribution system – to be paid to a single fund.
- Integrate Employer's Liability Scheme (such as M.B., Gratuity, E.C.) with the Fund Based Scheme.
- Integration of Social Security Schemes of various Ministries and State Governments with the Comprehensive Scheme
- Integrate various Provident Funds run by governments
- Various welfare funds to be integrated with the comprehensive scheme
- Four tier structure of schemes: Social Assistance for BPL- Compulsory Subsidized scheme for APL earning below ceiling- Compulsory contributory scheme for Others- Voluntary Schemes
- Social Assistance to be Right Based and to be implemented in a Phased manner.

Universalisation of Social Security

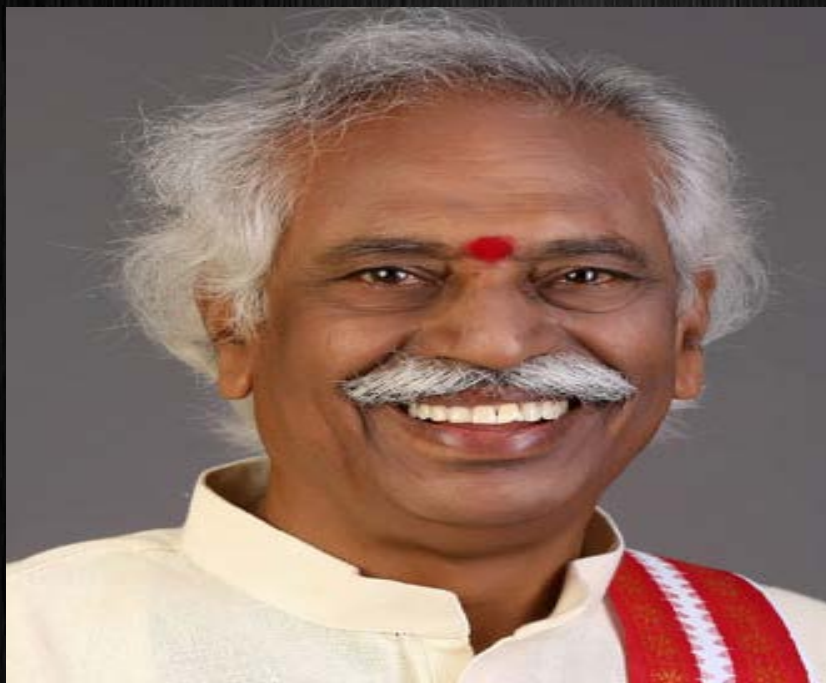
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- Expand coverage to reach Universalisation of the Scheme
 - Remove thresholds and wage ceilings
 - Make it applicable to all employments
 - Unorganised worker to be part of the integrated Scheme
- Create decentralised structures to administer the universalised schemes
 - Establish a Central Social Security Board for managing the comprehensive scheme.
 - Establish State Social Security Board for delivery/ implementation of the Scheme in the field.
 - Municipal bodies / Panchayats to be integrated into the registration, identification and service delivery system.
- In every locality, a single unified social security office to deal with claims of every kind, and provide services.
- Comprehensive registration system of workers for identification of beneficiaries of the Social Assistance Schemes
- Health set-up available in state government to be integrated with the State Boards' Health set-up

Need of overall Regulation

- Social Security being a multidisciplinary and concurrent matter, there should be a National Policy, and a National plan to coordinate and monitor the various social security systems – to make them conform to the overall National objective / Social Security Policy.
- Need for a strong (regulating) agency at Central level for-
 - Horizontal coordination (amongst ministries)
 - Vertical coordination (Centre – State – local bodies)
 - Overall Social Security Planning
 - Monitoring and Review of Overall Social Security systems
- Constitution of High powered **National Social Security Authority(NSSA)**
- NSSA – under PM



Shri Bandaru Dattatreya

Hon'ble Minister of Labour, Government Of India

Draft Framework for Social Security Reform in India (2016)

ILO Technical Assistance to MoLE

(Prof. Marius Olivier, South Africa)

Coverage extension and inclusion

- Universal Social Security extended to all including self employed and special emphasis be given to unorganised / informal workers.
- Robust system of identification of employers, workers (particularly those who cannot contribute) and beneficiaries.
- Participation to be compulsory in public schemes; supported by incentives to join
- Social security administration should take pro-active steps to register beneficiaries.
- Register all employers/ Establishments (except self employed enterprise).
- Contribution based on capacity to pay: tax funded contributions for those unable to contribute
- Integration of contribution, government assistance and delivery system.
- Contribution flexibility in case of intermittent/seasonal workers
- Contribution rates on periodic actuarial projections
- Power to impose Cess in certain cases (to augment contribution)
- Portability of benefits of migrant workers

Social Security Schemes

- Establishment of one or more common schemes for all Organised/ unorganised / informal workers could be considered
- A proper basis for universal treatment of all workers should be contained in Union-level schemes/funds and laws applicable to the whole of India.
- States should remain free to develop additional arrangements at the State level
- Apportionment of contributions to different individual scheme accounts from the consolidated contribution received.
- Modern and efficient delivery structure
- Reduce overlaps between schemes of various ministries / governments
- Fund for each scheme.
- Integration of welfare funds into the mainstream fund framework
- Avoid employer's liabilities (such as Employee Compensation / Maternity Benefit) – make it scheme liability

Institutional Reform

- Develop the strong institutional architecture as per administrative requirements
- Decentralise Scheme management and management of service delivery systems to States.
- Integrate existing ESI, PF system, DGLW and State's Social security delivery systems to create a one-stop-shop.
- Integrate Panchayats and Local bodies in providing point of contacts.
- be careful about an over-reliance on electronic engagement – the single point of contact should be more than an electronic interface.
- A mindset change is required – from “ruling” to “governing” and from “welfare orientation to professional-technocratic service orientation”
- Strengthen social audits and performance audits

Strengthen Legislative Mandate

- Strong Consolidated Law to provide mandate, and deal with governance, institutional, operational, financial and accountability frameworks
- Confirm Universal, Compulsory and Rights based approach
- Rationale of having an independent Regulator:
 - It Increases transparency and protect beneficiaries
 - It puts a protective fence around these institutions
 - Coordination and synergy between schemes & funding
- The Regulator should not be responsible for policy development

Other Important Recommendations

Enforcement and Inspection

- Establish a unified inspection service and system, which should be at the State level.
- Establish a separate Inspection service, to monitor compliance with the norms and standards set by the Regulator

Grievance Redressal

- Special provisions to ensure rights based approach
- Citizen-based schemes could benefit from a simple and effective dispute resolution framework
- A dedicated, country-wide **internal** dispute resolution system
 - multi-tiered
 - internal remedy mechanism,
 - strengthened by quality assurance
 - customer care arrangements;
- This should be followed by an **appeal** with an independent institution, preferably a tribunal and not a court



Draft Labour Code on Social Security and Welfare

Existing Acts on Social Security – to be replaced by the Code

Name of the Act	Enforcement Agency
The Employees State Insurance Act, 1948	ESIC
The Employees Provident Fund and Miscellaneous Provisions Act, 1952	EPFO
The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare (Cess) Act, 1976*	DGLW
The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Fund Act, 1976	DGLW
The Mica Mines Labour Welfare Fund Act, 1946*	DGLW
The Beedi Workers Welfare Cess Act, 1976	DGLW
The Limestone and Dolomite Mines Labour Welfare Fund Act, 1972	DGLW
The Cine Workers Welfare (Cess) Act, 1981*	DGLW
The Beedi Workers Welfare Fund Act, 1976	DGLW

Existing Acts on Social Security – To be replaced by the Code

Name of the Act	LEA
The Cine Workers Welfare Fund Act, 1981	DGLW
The Maternity Benefit Act, 1961	CLC/ State Government
The Payment of Gratuity Act, 1972	CLC/ State Government
The Employees' Compensation Act, 1923	State Government
The Unorganized Workers Social Security Act, 2008	DGLW plus other Central Ministries/State Govt
The Building and Other Construction Workers Welfare Cess Act, 1996	State Government

Purpose

- The Labour Code on Social Security and Welfare is an attempt to simplify, rationalize and consolidate the hitherto fragmented laws to make them less complex for easier comprehension implementation and enforcement.
- Basic core principles that have been incorporated are
 - (a) Universalization to entire workforce
 - (b) Integration of fragmented schemes
 - (c) decentralization of administration and
 - (d) rights based approach.

Administrative Structure

- A **three tier** Social Security Administration Structure proposed with tripartite representation in all these bodies drawing representatives of workers, employers and Government.
 - **National Social Security Council** headed by the Prime Minister to be the Apex Social Security Organization in the Country for overall regulation and monitoring;
 - **Central Board of Social Security** at Union level
 - **State Board(s) of Social Security** at State/UT level for implementation of the Social Security framework.
- In addition functions have been prescribed for local bodies (panchayats / urban local bodies) of registrations and facilitation.

Coverage

- The Code is applicable to *all kinds of employment* including
 - wage worker
 - part time worker,
 - casual worker
 - fixed term worker,
 - piece rate/commission rated worker,
 - informal worker
 - home-based worker,
 - domestic worker
 - self employed worker
 - seasonal worker.
 - Agricultural worker
- The Code is also applicable to all kinds of Employers including small establishments as well as Households

Compulsory Registration

- Unique Aadhaar Based Registration system for all workers through Local Bodies, compulsory registration for all categories of workers to whom the code applies- employees , self -employed, owner cum worker.
- A Portable Social Security Account i.e. Vishwakarma Karmik Suraksha Khata (VIKAS) to be opened for all workers on registration which shall be linked to the Aadhar number of the worker.
- Portability of VIKAS along with remittance of the accumulated contribution in case a subscriber moves to another state available to the workers.
- All Establishments to be registered as Employers.

Contribution

Employers contribution: - Maximum 17.5 percent of wage (with provision for reduced rates if a cess is levied on any particular industry) plus 2 percent of wage for Gratuity Fund (if applicable).

Workers' Contribution

if in the Organized Sector / wage employed-

- 12.5 percent of wage/monthly income for employee/non-employee, as the case may be

for self employed –

- 20 Percent of minimum wage if earning is less than wage ceiling but more than or equal to minimum wage.
- 20 Percent of monthly income if earning is more than or equal to wage ceiling.

Workers contribution is NIL if the worker belong to 'Poor' Socio-economic profile.

Note : Government contributes (through welfare funds) in respect of such persons.

Welfare Funds

- Welfare Funds to be set up in each state for different categories of workers.
- Welfare Funds to consist of money collected through cess and appropriation by Parliament/State Legislature (tax funding)
- The State Board to appropriate moneys from the Welfare Funds for crediting the same to State Social Security Fund of entitled workers.
- The Contribution so appropriated to determine the worker's entitlement to benefits under this code.

Benefits

- Common Schemes to be framed by Central Governments
 - Pension, Medical Benefit
 - Sickness Benefit, Group Insurance Benefit
 - Maternity Benefit, Unemployment Benefit
 - Disablement Benefit, Provident Fund
 - Invalidity Benefit,
 - Dependent's benefit, and International worker's pension benefit.
- Additional Voluntary Schemes by State Governments
- Rights based benefit system
- Allowing the payment of benefits from the Fund to a person who becomes disentitled to any benefit due to him on account of Employer's negligence and subsequent recovery of the same from the defaulting employer.

Employer Liability replaced by Fund Liability ³⁰

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- Employer's Liability replaced by Fund Liability for
 - Gratuity.
 - Employee Compensation
 - Maternity Benefit
- An employee shall be deemed to have been in continuous service of the Principal Employer for the purpose of Gratuity entitlement so long as he has served continuously for the same Principal Employer, whether or not through same or different contractors.

PPP in Social Security

- Provision for licensing of Intermediate Agencies in the fields of
 - Fund Management,
 - Point of Presence,
 - Service delivery,
 - Benefit disbursement,
 - Record keeping and
 - Facilitation

for enabling PPP system in administering social security.

- Adequate safeguards for exercising control over Intermediate Agencies for protecting the interest of subscribers.

Administrative Charges

- Administrative charges fixed at a maximum of five percent of the contribution due rather than as a percentage of wages as prevalent at present effectively reducing the actual cost.

Exemptions

- Exemption from some or all the schemes to any establishment or class of establishments/ person or class of persons **subject to condition that the establishment provides better benefits.** (for establishment employing ≥ 100 workers)

Unclaimed amounts

- Confiscation of unclaimed amounts and credit of the same to Welfare Fund(s), if no claimant could be found even after inviting claims and objections in respect of such amounts. Confiscated amount to be credited to the welfare funds (decided by government).
- The notice for filing claims allows workers of closed/ defaulting establishments to avail their entitled benefits-an improvement over the present practice.

Facilitation and Enforcement

- *Social Security Facilitators* for assisting workers and employers for fulfilling their obligations under this Code to be appointed by Local Bodies. State Board to provide necessary Grants/financial assistance out of Administrative fund(s) for meeting the salaries of the facilitators appointed for the purpose of this code.
- State Board is to appoint *Inspectors* for the enforcement of the provisions of the code.

Right based Social Security

- Social Security to be the right of each and every worker rather than a goodwill gesture or appeasement initiative.
- Provision for complaint by worker/ registered trade union/association of workers to Social Security facilitator in case of denial of coverage/failure by employer to deposit contribution/denial of benefit or compensation/non-provision of any entitled service or benefit.
- Provision for awarding Compensation to the worker by the Commissioner out of Social Security Reserve Fund, over and above the benefit he is entitled to, for deficiency in providing the entitled service to the worker.

Appeals

- Provision of First Appeal for any person aggrieved by a decision of any of the specified authorities to be made before Departmental Appellate officers and second Appeal to Social Security Appellate Tribunal.
- Appeal and reference to High Court against a decision of the Tribunal if the matter involves a substantial question of law.

Penalties

- Penalties as specified in the Sixth Schedule to be imposed on any person contravening the provisions of the code as specified in that schedule.
- Provision for Compounding of offences by Commissioner in respect of an offence, not being an offence punishable with imprisonment under this code.
- Provisions of making Community Service order for compliance by the offender in respect of offences where the maximum imprisonment specified under this code is not more than two years.

Indexation of Fines

- Central Government to have the power of increasing, reducing or modifying the fines and/or the maximum limit of fines specified under this Code by linking the increase/reduction/modification to change in the Consumer Price Index.



THANK YOU

श्रम एवं रोज़गार मंत्रालय, भारत सरकार



सत्यमेव जयते

Ministry of Labour & Employment
Government of India