



## Social Security Measures for Unorganised Workers

### KEYWORDS

Labor Administration, Human Right, United Nations, ILO, Unorganised Labour

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**ABSTRACT** *The word social security is magic word in labour Administration. Social security is a basic human right. There is no uniform definition for the term social security. The concept and meaning of the term change from country to country. Comprehending its inevitability United Nations, International Labour Organisation (ILO), and our constitution paid much attention. Both the central and State Government had enacted various laws in protecting the social security. This paper examines the dimensions and scope of social security in national and international perspective. Various protective measures extended to workers in Unorganised sector are discussed here. The impact of national and international laws on unorganized Labor forms its due part in this paper.*

### INTRODUCTION

Social security is a comprehensive measure by the State to its members. Every country had its own measures as armor which protects the people in times of need. However the dimension, meaning, scope differs from country to country depending upon their political doctrine. Social security is a means to promote social and economic justice to empower people. It is a security measures that a society provide its members to meet certain constraints. Germany was the first country to introduce Social security scheme (1883). The term Social Security, in the United States, refers to a specific social insurance program for the retired and the disabled whereas in UK it is a monetary assistance from the state for people with an inadequate or no income. USA first enacted the Social Security Act 1935 and paved the way for legal protection. The ILO's tenth session in 1927 had led India to formulate the strategy for adoption of two core conventions. Social security, in Australia, refers to a system of social welfare payments provided by Commonwealth Government of Australia. Social Security in France is divided into four branches namely, illness, old age/retirement, family, work accident and occupational disease. Social security in Singapore focuses on the central concept of a provident fund, to which all citizens and permanent residents should contribute during their lifetime. Malaysia's social security system is known as SOCSO, which provides assistance in terms of regular payments from the government in the event of unemployment, sickness or death. Social security in Sweden is one of the parts of the Swedish welfare system and consists of various social insurances handled by the National Agency for Social Insurance and also welfare given out on a need basis by local municipalities. In Canada, Social security refers to government programs that replace people's income lost due to pregnancy, illness, accident, disability, the death or absence of a family's breadwinner, unemployment, old age or retirement. According to ILO, social security is the protection that a society provides to individuals and households to ensure access to health care and to guarantee income security, particularly in cases of old age, unemployment, sickness, invalidity, work injury, maternity or loss of a breadwinner.

### SOCIAL SECURITY AS HUMAN RIGHT

Social security was established as a basic human right in the ILO's Declaration of Philadelphia (1944) and its Income Se-

curity Recommendation, 1944 (No. 67). This right is upheld in the Universal Declaration of Human Rights, 1948, and the International Covenant on Economic, Social and Cultural Rights, 1966. The right to social security ensures that everyone, regardless of age or ability to work, is guaranteed the means necessary to procure basic needs and services. Several key human rights principles are fundamental to guaranteeing the right to social security. Social security must be provided without discrimination (in intent or effect) based on health status, race, ethnicity, age, sex, sexuality, disability, language, religion, national origin, income, or social status.

ILO conventions and recommendations relevant to social security extension policies include:

- The Social Security (Minimum Standards) Convention, 1952 (No. 102)
- The Equality of Treatment (Social Security) Convention, 1962 (No. 118)
- The Employment Injury Benefits Convention, 1964 (Schedule I amended in 1980) (No.121)
- Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128)
- The Medical Care and Sickness Benefits Convention, 1969 (No.130)
- The Maintenance of Social Security Rights Convention, 1982 (No. 157)
- The Employment Promotion and Protection against Unemployment Convention, 1988 (No.168)
- The Job Creation in Small and Medium Sized Enterprises Recommendation, 1998 (No. 189)
- Maternity Protection Convention (Revised) 2000 (No. 183).

### The Right to Social Security is protected by:

- Article 22 of the Universal Declaration of Human Rights
- Articles 9 of the International Covenant on Economic Social and Cultural Rights
- Articles 26 of the Convention on the Rights of the Child
- Article 5 of the Convention on the Elimination of All Forms of Racial Discrimination
- Articles 11 & 14 of the Convention on the Elimination of All Forms of Discrimination Against Women

- Article 16 of the American Declaration on the Rights and Duties of Man

### INDIAN CONSTITUTION AND SOCIAL SECURITY

Social justice is the human essence of the Indian Constitution. India, being a welfare State, has taken upon itself the responsibilities of extending various benefits of Social Security and Social Assistance to its citizens. The social security legislations in India derive their strength and spirit from the Directive Principles of the State Policy as contained in the Constitution of India. In India social Security and Labour welfare falls under Concurrent list, it means both union and state Government can make laws on social security. 92% of the workforce is in the informal sector which is largely unrecorded were not covered by the social security Laws till 2008. In the Constitution, the State should within the limits of its economic capacity make effective provision for securing the right to work, to education and to public assistance in case of unemployment, old age, sickness and disablement. Article 42 requires that the State should make provision for securing just and humane conditions of work and for maternity relief. Article 47 requires that the State should raise the level of nutrition and the standard of living of its people and improvement of public health as among its primary duties. The obligations cast on the State in the above Articles constitute Social Security.

### SOCIAL SECURITY LAWS IN INDIA

The Employees' State Insurance Act, 1948 (ESI Act) covers factories and establishments with 10 or more employees and provides medical care to employees and their families, cash benefits during sickness & maternity, monthly pension after death or permanent disability. Employees' Provident Funds Act, 1952 applies to specific scheduled factories and establishments employing 20 or more employees and ensures terminal benefits to provident fund, superannuation pension, and family pension in case of death during service. Workmen's Compensation Act, 1923 (WC Act) provides for payment of compensation to the workman or his family in cases of employment related injuries resulting in death or disability. Maternity Benefit Act, 1961 provides for wages during maternity as well as paid leave in certain other related contingencies. Payment of Gratuity Act, 1972 provides 15 days wages for each year of service to employees who have worked for five years or more in establishments having a minimum of 10 workers.

### SOCIAL SECURITY AND UNORGANISED WORKERS

The term Unorganised labour has been defined as those workers who have not been able to organize themselves to pursue their common interests due to constraints like casual nature of employment, ignorance and illiteracy. Unorganised workers may be categorised under the following four broad heads in terms of occupation, nature of employment, specially distressed categories, and, service categories. The UPA government appointed the National Commission for Enterprises in the Unorganised Sector (NCEUS) in 2004 to look into livelihood conditions and social security for unorganised workers — employed in the unorganised sector and those in the formal sector without any social protection. It found that only those in the formal sector, 8 per cent of India's workforce, enjoy social security. Over 91 percent of workers, over 39.5 crore workers, are in the informal sector.

### UNORGANISED WORKERS' SOCIAL SECURITY ACT, 2008

The term "social security" has not been defined in the law

and what is even more strange, the term does not occur in the body of the law in any substantive sense. Unless the expressions "social security" and "welfare" are used interchangeably, in which case there is no need to be pompous and call it the "Social Security. This law does not deal with this issue of employment, its regulation, wages, conditions of work, and is incomplete. The term "Unorganised Worker" has been, inter-alia, defined in section 2(m) as "a home based worker, self employed worker, or a wage worker in the unorganised sector.". The term "Unorganised Sector" restricts the coverage to those enterprises employing workers who number less than 10. This numerical limit stands as barrier to thousands of workers from the coverage of the Act. A question has been raised whether home based worker should also be included in the definition of the term "Unorganised Worker". The act gives provision of formation of national and state social security boards, which would have network of district and panchayat through workers facilitation centres all over the country. The Worker's Facilitation Center (WFC) will be the main instrument for implementation of the Act. Functions of the WFC include (a) Registration of the workers and giving them social security numbers with identity cards should be the responsibility of the Worker's Facilitation Center. (b) Resolution of labour disputes through conciliation and arbitration by setting up committees in consultation with the State Board. (c). They should also have functions of increasing skill and productivity. They should provide marketing linkages to the workers. It should constitute employment exchanges for the unorganised sector. It should provide linkages for financial services to workers. According to the Act, the workers facilitation center would be initiated by unions or labour NGO's that the state governments will recognize.

The various social security schemes for the unorganised workers under the Act includes, Indira Gandhi National Old Age Pension Schemes, National Family Benefit Scheme, Janani Suraksha Yojana, Handloom Weaver's Comprehensive Welfare Scheme, Handicraft Artesian Comprehensive Welfare Scheme, Pension to Master Craft person, National Scheme for Welfare of Fishermen and Training and Extension, Janshree Bima Yojana, Aam Admi Bima Yojana, Rashtriya Swasthya Bima Yojana. Though the Unorganised Worker Social Security Act was passed in 2008, there has been dismal progress. The Act has been criticized on several grounds as discussed above.

### CONCLUSION

Social Security is increasingly seen as an integral part of the development process. Social security has a powerful impact at all levels of society. It provides workers and their families with access to health care and with protection against loss of income, whether it is for short periods of unemployment or sickness or maternity or for a longer time due to invalidity or employment injury. It provides older people with income security in their retirement years. And social security can contribute to social cohesion and to a country's overall growth and development by bolstering living standards, cushioning the effects of structural and technological change on people and thereby providing the basis for a more positive approach toward globalization. Only one in five people in the world has adequate social security coverage. More than half the world's population lacks any type of social security protection. Worst is the Unorganised sector in India. Lack of social security coverage is largely concentrated in the informal economies of the developing world, which are generally a larger source of employment for women than for men. Officials say the

government is proposing to issue a smart card, "U-WIN," Unorganised Sector Identification Number, to every worker in the unorganised sector with a unique identification number for accessing social schemes. What these benefits will be, and what their legal guarantee is still up in the air. Convergence of social security programmes to cater to the social security needs of the workers in the unorganised sector is the need of the hour.

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