Social Security Legislation in India: An Overview

[1]Dr. Ritesh Patel, Dr. [2]Ashwin Patel

[1]Assistant Professor, Parul Institute of Commerce, Parul University

[2]Assistant Professor, Parul Institute of Commerce, Parul University

Abstract: The concept of Social Security for employees has gained importance in developed and developing countries. Social security can be defined as the measure to provide protection to employees and workers against contingencies like retirement, retrenchment, maternity, old age, employment injury, unemployment, death, disability, and other similar conditions. Social Security measures in statutory and legal form have been emerged as a key factor in the industrial system to protect employees and workers against unexpected contingencies. Many schemes in India like provident funds, pension schemes, medical insurance, maternity benefits, gratuity, etc. are part of these statutory provisions under Social Security measures. The Workmen 's Comp Act, the Worker National Security Act, the Employee's Pension Funds Act, the Miscellaneous Provisions Act, and the Payment of Gratuity Act are all examples of legislation, etc. are the legal provisions under social security measures. This article covers the measures taken by the Government of India for Social Security in the country and various issues and prospects.

Keywords: Employees, Fund, Labor Legislation, Labor Code, Social Security.

1. INTRODUCTION:

Social security is one of the important phenomena that is considered an indispensable element of the national development program[1]. Although it was formerly thought to be particularly important for mainly manufacturing employees, the security government concept has expanded to embrace all members of society. Social safety refers to the protection that a community provides its citizens versus specific dangers or eventualities via suitable structure. These are basically eventualities that a person could pay just on the basis of his or her limited resources, aptitude, or insight[2]. The basic scope of Social Security covers two aspects i.e. social insurance and social assistance. Social Insurance includes the periodic contribution of workers and employees to a fund with or without subsidy of government out of which benefits are provided to the contributors during old age, retirement, sickness, disability, unemployment, or other contingencies. Social assistance includes benefits from the government like maintenance of children, mothers, invalids, disabled, unemployed, etc. which are non-contributory. The main types of economic insurances are often covered under India's social safety strategies:

- *Workers' provident fund or pensions:*

In the case of mortality on the job, the Workers' Pension Association, which is component of the Ministry of Labor and Industries, is liable for retirement and family pensions. In India's 400 billion annually population, only around 35 million individuals have access to legislated public protection nets in the form of old-age income security. The Employees' Provident Fund Organisation, which comprises 26 million of the 35 million employers, includes personal workers, government employees, military personnel, and staff of State Private Property Undertakings . The EPFO's initiatives are available to businesses with a minimum of 20 employees. Donations to the Workers' Evacuation Fund (EPF) Program are necessary for both the firm and the individual when a worker earns up to INR 15,000 (US$205) per quarter, and voluntary when the person makes higher. If a company's pay exceeds this threshold, the business's contributions would be limited to the amounts payable on the first INR 15,000 solely.

- *Healthcare service:*

India has a universal healthcare service, however, It cannot not meet all of the healthcare demands of the people. Workers' State Security Act of 1948 created funds to provide medical treatment, as well as monetary benefits during illness and pregnancy, and monthly reimbursements in the case of mortality or incapacity for individuals working in companies and organizations with 10 or many employees[5]. The ESI system presently covers hostels, retailers, cinema, and showcasing theaters, eateries, newspaper stations, and highway enterprises. Business educational and clinical institutions with 10 or more staff are now eligible to participate in the initiative. Only a few republics and federal regions are affected [3], [4].

- *Disability ability:*

The Workers Insurance Act of 1923, often referred as the 'Workmen's Insurance Act of 1923,' provides compensation to staff. Moreover, workers in certain professions are at risk of contracting diseases that are peculiar to such professions. A person who acquires an industrial illness is regarded to have been hurt on the job and is entitled to compensation from his or her employers.

- *Maternity leave:*

The Maternal Welfare Act of 2017 took effect on April 1, 2017, expanding some of the key benefits stipulated by the preceding Maternity Benefit Act of 1961. For the first two children, the new legislation gives Females in the unorganized industry now get 26 weeks of paid parental vacation, up from 12 months before. The third kid will be eligible for 12 weeks of maternity leave. India now has the world's third-longest maternity leave, after only Canada (50 weeks) and Norway (50 weeks). The Act provides for 12 weeks of parental vacation for moms who acquire a kid under the aged of 3 months, as well as commissioning women who chose surrogate. The 12-week term would start when the child is handed up to the adopted or commissioned mom in certain cases. Furthermore, any firm with children than 50 employees must provide crèche services within an acceptable strolling range, which the mom might use up to 4 hours a week. For regulatory purposes, businesses must be informed that this rule would take affect on June 1, 2017 [5], [6].

History of social security in India:

For more than two centuries, India was ruled by the British. Pre-British time, social welfare payments were also available throughout the Mughal Empire. Foreign visitors have seen public hospitals being built for the common people. Other social services were also made available. To comprehend the situation of social security in pre-British India, one must first comprehend the socio-economic framework that existed at the time. India had a self-sufficient rural economy before the British invasion, based on the basic division of labor13. In a society like India, where caste has traditionally been important and castes play a key role in selecting jobs, this is especially true[7]. The jobs were primarily hereditary, meaning they were handed down through the generations. The food produced in the settlement was eaten entirely by the villagers. As a result, the issue of economic safety was not raised. Textile handicrafts were India's first industry in the pre-British era. Cotton, silk, silk fabrics, woolen material, opium, cinnamon, and other commodities continued to be sent from India. Britain discovered India as a valuable supply of raw materials and inexpensive labor around 1850, when the economic revolution was at its zenith, and so made India a marketplace for its completed products. Along with new economic practices that evolved after the British conquest, new social classes formed as well. These new classes embraced western lifestyles, such as clothing and fashion, increasing in demand for British products in the nation. This resulted in the collapse of the country's handicraft industries, resulting in greater poverty and insecurity among the population. The British government at the time took little steps to re-settle the jobless; instead, the jobless bulk went to agriculture, worsening their plight even more [8]–[11].

During the 1850s, a strategy of agricultural commercialization arose, with production moving away from the family. 14 Food crops were replaced by cash crops. Surplus crop production led to the establishment of commercial marketplaces, and towns and cities emerged as a result of the surplus trade. Food production fell as a consequence of the strategy, leading to famines throughout the nation. This was India's first serious food crisis or insecurity in the country's economic and social history. By this period, factories and industries had established themselves throughout the country. The plantation business was one of the first industries to emerge under the British administration. Indigo, tea, and coffee all grew rapidly in the 1860s and 1970s. Workers here, on the other hand, were paid minimum pay and worked in harsh circumstances.

Though the growth of businesses created a lot of jobs, it also created a lot of social and economic uncertainty among daily wage workers. The expansion of the modern manufacturing system was mirrored in the development of textile mills. Many industrial centers were established throughout the nineteenth century, with Calcutta and Bombay being the most important. Increased work prospects coexisted with other societal issues such as population expansion, literacy rate, diminishing female sex ratio, demographic composition, poverty line, and urbanization throughout this period.

According to recent research, India's labor market is becoming more informal. There is a growing trend for the unorganized sector to take a larger part of the entire manufacturing sector. 16 As a result of the increased prevalence of in formalization of labor, the economic security of these employees in unorganized sectors has become a problem[12].

1.1 In India, the development of employees' social safety:

The evolution of the social safety concept in India was slow, sporadic, and on a selective basis. After the industrialization phase in India, the necessity to safeguard employees from life's perils like accident, illness, and parental leave, and maternity was realized. However, no concrete measures were adopted for a long time. The phases of social security in India can be summarized in Table 1.

Table 1: Diagrammatic Representation of Evolution of Social Security of workers in India.

Year	Development
1855	Fatal Accident Act passed under which provisions made regarding relief to workers against fatal injuries at the workplace.
1919	International Labor Organization came into existence and it emphasized the need of protecting against industrial hazards.
1923	Workmen Compensation Act passed under which employer made liable to pay compensation in respect of injuries and death.
1929	The Royal Commission on Labor emphasized the need for protecting workers during sickness and recommended a scheme of health insurance for them.
1929	Bombay state adopted the Maternity Benefit Act under which cash benefits were provided during a specific period of maternity.
1941	The government of India adopted Maternity Benefit Act.
1948	The Colliery Mine Vigilance Funds and Reward Programmes, enacted in 1948, attempted to create a mandatory provident fund for coal-mine employees.
1952	The Employee’s Provident Fund Act was passed to ensure that obligatory pension accounts are established in additional businesses.
1961	The government of India passed the Central Maternity Benefit Act which provided uniform benefits to employees all over the country.
1972	The Payment of Gratuity Act was passed to give financial support in the event of a company's resignation or departure.

1.2 Existing important Social Security Legislation in India:

"Within the boundaries of its economy and advancement, the nation wil make effective stipulations retaining the right to work, to learning, and to government aid in cases of joblessness, old age, sickness, and debilitation, and other instances of un-served wants," says Article 41 of India 's statute. At present, many laws covered social security for employees and workers in India. However, the important social security legislation in the country for employees and workers working in industries can be discussed as under;

- *The 1923 Workmen 's Insurance Act:*

The Government of India passed the Workmen’s Compensation Act in 1923 to impose upon the employers an obligation to pay compensation to workers for accidents arising out of and in the course of employment[13]. Workers who operate in industries, mining, crops, manually powered equipment, building sites, railroads, ships, spectacles, and other dangerous activities listed in Appendix II of the Statute are covered by this act. The Armed Forces, informal laborers, and workers protected by the Worker's State Security Statute of 1948 are exempt from this act.

- *The Worker's State Insurance Act, which was enacted in 1948:*

In 1948, the Employees State Security Act was enacted to offer medical care and job security to industrial employees who were ill. This Act offers medical advantages to covered individuals and their relatives in the form of professional attention, treatment, medications, and injections, when the option has been provided to the households as well.

- *The Maternity Benefits Act, 1961:*

The Government of India enacted The Maternity Benefits Act, of 1961 to provide uniform standards for maternity protection. It was implemented in the first instance to all factories, mines, and plantations workers except those to which the Employee's State Insurance Act applied. This Act was amended in 1976 to extend the benefit to all women workers covered by the ESI Act.

- *The Workers Provident Fund Act, which was enacted in 1952:*

Workers are eligible for pension advantages such as provident funds, familial pensions, and payment coverage under the Workers' Provident Fund and Other Articles Act, 1952. This Act covers any factory in any of the industries listed in Schedule A that employs 20 or more people or that the Central Administration announces in the federal Register. The Act, meanwhile, did not applicable to collaborative organizations with fewer than 50 members that operate absent the use of electricity.

- *The Gratuity Compensation Act of 1972:*

The payment of Gratuity Act was enacted in 1972. It applies to all factories, mines, oil fields, plantations, ports, railways, ships, or establishments in which 10 or more workers are employed. All employees and workers working in these establishments are entitled to receive gratuity irrespective of the number of their wages. The Government of India is empowered under the Act to extend this Act to any establishment. The amount of gratuity is payable on retirement, death, disablement, or termination, subject to the condition that the employee has rendered five years of continuous service with the same employer. Gratuity is payable at the rate of 15 days' wages for each year of completed service or part thereof subject to a maximum of 20 months' wages or Rs. 3,50,000 whichever is lower as shown in Figure 1.

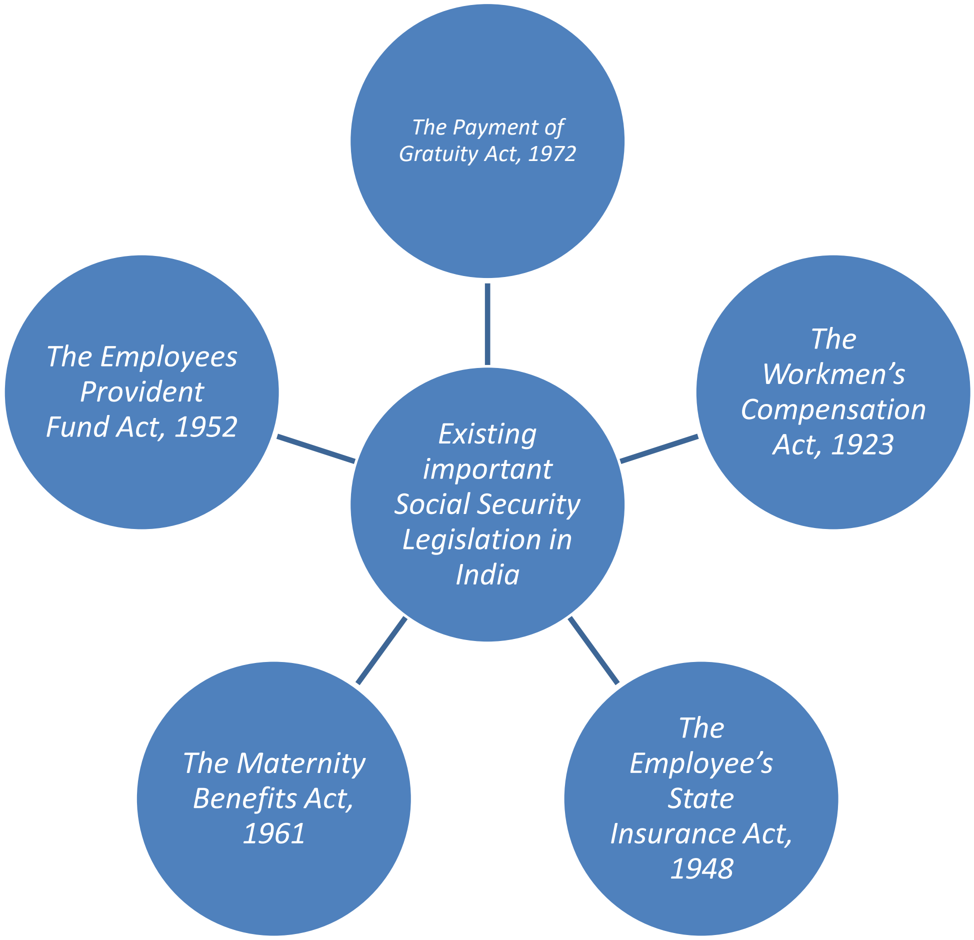


Figure 1: Diagrammatic Representation of Existing important Social Security Legislation in India.

1.3 Issues with Social Security Legislation in India:

Considering the emerging global changes that affect social security and the important features of the decent work approach the following key issues are faced by the social security legislation in India.

- *Social Security, Employment and Development:*

Social Safety programs are part of a broader set of social policy that include expenditures in basic socioeconomic amenities, labor law that protects workers, and the protection of fundamental freedoms. They are also inextricably linked to labor policy, since most social insurance systems are funded by labor revenues and cover from risks associated with job capabilities, such as unemployed, illness, injury, and old age. Social safety and employment have a significant impact on commercial growth, and they all help to the nation's sociosocio-economiceconomic growth.

- *Expanding individual social security insurance:*

In industrialized developed countries, the statutory social security system is well established by law. However, in developing countries, Micro - insurance programs must be promoted to cover some populations in the formal sector who have a few really potential to participate. In many Asian countries, national resources are not adequate to finance these benefits.

- *Contributing to gender equality:*

The majority of social security legislations were originally made to cater to families with a male breadwinner. In reality, a considerable section of the populace no longer lives in such households as a result of shifting lifestyle, aspirations, and household structure, adding to the desire for female equality. It is a problem in India to adapt to these developments by ensuring parity of treatments amongst males and females while also phasing in balancing provisions, such as full pension ages and widows' allowances.

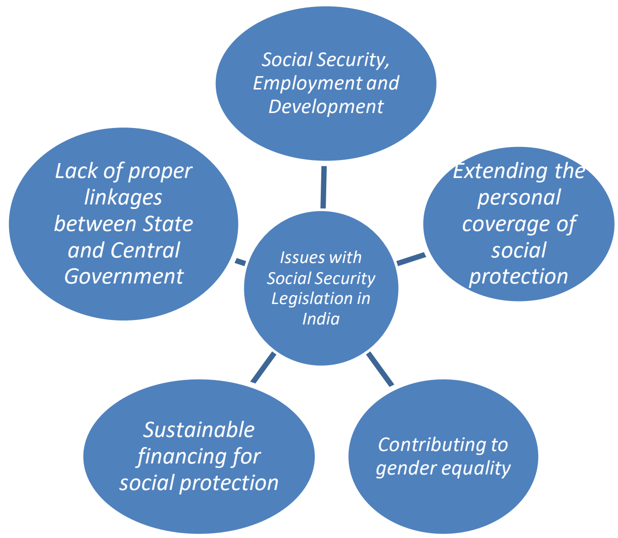
- *Sustainable financing for social protection:*

The extension of social protection requires improved financial resources as well as new forms of financing from the Government. At the national level, financing could be enhanced through a better collection of existing social security contributions and taxes. In India, more emphasis could be put upon the contributory capacity of workers in the informal economy for micro-insurance schemes. The financial sustainability of such schemes can be enhanced through various mechanisms, such as pooling, reinsurance, and some form of affiliation with statutory social insurance schemes.

- *Lack of proper linkages between State and Central Government:*

Central and State governments are core partners in providing social security schemes to the workers. There is a need for improvement in linkages between State and Central Government along with various ministries like social security, health, labor, finance, etc. The Central Government has to play an important role by forming As indicated in Figure 2, there are organizations that directly representing employees in the unofficial sector.

Figure 2: Diagrammatic Representation of



Issues with Social Security Legislation in India

2. DISCUSSION

Health and medical insurances; old age/retirement benefits; The Indian administration has divided social safety into divisions: jobless insurance, life and sickness premiums, pregnancy and children incentives, regional job guarantees, and nutritional safety. These provide appropriate social safety to the majority of the Indian populace at different phases of their life. The social safety and economic expenses of the Indian central administration, as well as the finances of public safety agencies, account for a significant amount of the official budget, while state and local governments play important roles in creating and executing social security programs. Various state governments implement additional welfare measures that are specific to them. [1] [2] To distribute welfare measures in India, the government employs the unique identifying number (Aadhar) that each Indian owns. India's comprehensive social protection system may be divided into two categories: social assistance (in the form of cash or in-kind welfare payments paid by taxes) and required social security contributory programs (primarily connected to work). The Law on Social Safety, 2020 is a portion of the Indian labour laws that focuses with worker social safety and contains significant provisions on retiring annuities, hospital insurance and hospital payments, sick pay and holidays, unemployment advantages, and paid maternity absence. The Workers' Provident Fund Institution, which provides retiree pensions, provident monies, social lives, and incapacity premiums, and the Workers' Government Insurance, which provides healthcare, joblessness benefits, and sick pay, are the two most important jobs social security projects backed by The Script On Social Security, 2020 . There's also the National Pension System, which is gathering a lot of traction. [4] These are paid by salary contributions to social insurance, but the National Food Security Act of 2013, which ensures food security for all Indians, is funded by general taxes.

3. CONCLUSION

Authorities and businesses must pay close regard to social safety regulations for structured and disorganized industry employees, as this would assist to enhance their efficiency and workplace relationships, and therefore assure the nation 's growth. The Government of India has emphasized the social security programs for millions of employees and workers working in organized and unorganized sectors. The various schemes and programmers recently adopted are The effect is restricted in extent, both in terms of safety and penetration. As the world 's second populated nation, India faces numerous challenges like illiteracy, lack of awareness, etc. in providing social security to all the employees and workers. However, in recent years the Government of India is designing a bouquet of schemes to deliver pension, provident fund, and health insurance benefits for all workers including self-employed and agricultural workers under the social security code being finalized by the labor ministry.

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