

Social Security: International labour organization and India

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Abstract

The researcher has made an attempt to analyze and focuses on the concept of social security and how it has evolved through the times. It speaks of the enactments where social security provisions have been made especially in the labour legislations. Lastly it focuses on the international perspective with respect to the International Labour Organizations.

The judiciary plays an important role very large portion of India's labour force is in the informal economy. These informal economy workers have little or no access to basic social security coverage. While India made some progress in achieving a basic level of income security and medical care for all citizens, policy-makers are facing a number of challenges, including closing the coverage gap, improving governance of social protection schemes, and creating the necessary fiscal space to fund social protection policies.

Keywords: social security, international labour organizations, labour legislations, informal economy, social protection,

Introduction

International Labour Organization's work in the field of social security has been pioneering. From the date of its inception, ILO has been constantly engaged in formulating standards with a view to extending social security benefit to larger section of people in greater number of contingencies. The Philadelphia Declaration recognizes the solemn obligation of the ILO to further among nations of the world programmes which will have to achieve —the extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care. Co-ordination ^[1] of social along with international and intergovernmental organizations in the social security field. International Labour Office serves as the secretariat of the International Social Security Association which groups together government services as well as central institutions and national unions for social security of different countries. ILO sets ideal standards ^[2] for their universal application to ameliorate the working conditions of the workers and to ensure social justice to them. These universal standards are known as Conventions and Recommendations. In all, 22 conventions and 16 recommendations have been adopted on social security and are classified under:

- A. General Instruments,
- B. Medical Care and Sickness Benefit,
- C. Maternity Benefit,
- D. Invalidity, Old Age and Survivor's Benefit
- E. Employment Injury Benefit, and
- F. Unemployment Benefits.

▪ ILO Conventions and Recommendations

- A. General Instruments

(a) Social Security (Minimum standards) Convention, 1952

The Convention ^[3] consolidates the main provisions of the provisions ILO instruments relating social security and

establishes minimum standards for 9 fundamental branches of social security namely medical care ^[4], sickness, unemployment, old age, Employment injury, family, maternity, invalidity, and survivor's benefit.

The principles anchored in Convention No. 102 are: guarantee of defined benefits; participation of employers and workers in the administration of the schemes; general responsibility of the state for the due provision of the benefits and the proper administration of the institutions; collective financing of the benefits by way of insurance contributions or taxation. The Member States are allowed to ratify the Convention partially. But the partial ratification is subjected to certain conditions *viz.*, ratifying states must secure at least three benefits out of 9 benefits covered by the convention and at least one from Part IV, V, VI, IX and X. The persons covered are prescribed classes of employees, active population of residents and families of beneficiaries. The instrument indicates the manner of calculation and applicable limits. Equality in treatment of non-nationals and nationals is also ensured by this Convention, if money is paid from public fund.

- Equality of Treatment (Social Security) Convention, 1962 the Convention ^[5] has been ratified by 38 member countries. This Convention is designed to secure equal treatment of nationals and non-nationals including refugees and stateless persons in case of social security except in special schemes for public servants, war victims and public assistance by ratifying states. But the equality is assured to the non-nationals of another ratifying state in case of medical care, sickness, maternity, invalidity, old age, and survivor's employment or family benefits. Equal treatment is guaranteed regardless of residence, on condition of reciprocity. States accepting obligation are bound to make payment on the basis of invalidity, old age, survivor's employment and family benefits. But the

¹ This is done by providing creative solutions to the social security problems. See supra n.2 at p. 3

² ILO Standards have formed the basis for much social and labour legislations enacted in this century. See supra n.1 at p. 17

³ Convention No.102.

⁴ Part II of the Convention

⁵ Convention No.118.

states can prescribe minimum period of residence for granting benefits of maternity, unemployment survivors and old age benefits.

- Convention on Maintenance of Social Security Rights, 1982

In effect this convention ^[6] is considered as supplementary to the Social Security (Minimum Standards) Convention 1952, Equality of Treatment (Social Security) Convention, 1962. Under this convention various branches of social security are offered. It lays down that each member shall endavour to participate with every other member concerned in schemes for the maintenance of rights in the course of acquisition, as regards each branch of social security and for which everyone of these members has legislation in force, for the benefit of the persons who have been subject to their legislation. Such schemes for maintenance of rights in case of acquisition shall provide for periods of insurance, employment, occupational activity or residence to be completed under the legislation of the concerned members and it should provide for the participation involuntary insurance scheme acquisition, maintenance or recovery of rights, periods completed currently under the legislation of two or more members shall be reckoned only once. The convention requires the members to provide schemes of maintenance and to determine formula for awarding, invalidity, old age and survivor's benefits and pensioners benefit in respect of occupational diseases, and cost involved. The convention requires that each member shall guarantee the provision of invalidity, old age and survivors cash benefits, pension in respect of employment injuries and death grant and the conditions under which benefit can be given in case of contributory benefits, by agreement between parties. Each member is also required to promote the development of social services to assist persons covered by this convention, particularly migrant workers, in their dealings with the authorities and institutions as well as promote the welfare of the person and his family. Apart from these conventions, there are two recommendations also coming under the general category:

1. Income Security Recommendation, 1944

This recommendation aims at formulating general principles to be followed by states in making income security schemes for employed persons and their dependants. It recommends that such schemes should be founded on compulsory social insurance supplemented by assistance measures. The risks covered under this recommendation are sickness, maternity, invalidity, old age, death of the wage earner, unemployment, emergency expenses and employment injuries. Suggestions for application of guiding principles ^[7], detailed in other provision are also given in the annexure to the recommendation.

2. Social Security (Armed Forces) Recommendation 1944

The recommendation requires the member states to ensure that persons discharged from the armed forces and assimilated services receive a special grant proportionate to length of service on their discharge and treated under employment insurance schemes. It is a recommendation that has been adopted in the context of Second World War, but relevant for all cases of armed conflict.

3. 2. Maintenance of Social Security Rights Recommendation, 1983

It aimed at providing minimum guidelines to be followed by the members who ratified the convention. The recommendation and its annexure contains model provision for all those instruments scheme for various benefits, trilateral or multilateral agreements that are required to be implemented or concluded between the parties.

B. Medical Care and Sickness Benefit

- a. Sickness Insurance (Industry) Convention 1927 ^[8] This convention adopted in its 19th session on 25th May 1927. This convention is concerning sickness insurance for workers in industry and commerce and domestic servants. It consists of 18 Articles and ratified by 28 member countries.

The convention requires the member countries to set up compulsory Sickness Insurance System ^[9] which shall apply to manual and non-manual workers including apprentices employed by industrial undertakings, commercial undertakings, out workers and even domestic servants. However the convention allows exemption to special schemes with more benefits and employees of special categories specified as in national laws or regulations. The sickness benefit shall be payable in cash to an insured person who is rendered incapable of work by reason of his abnormal bodily or mental health. The convention prescribes time periods and conditions under which the cash benefits can be withheld. The convention also provided the service of doctor or medicine even after period of sickness benefit and extending the benefits to the dependants. Other articles of the convention make provision for the administration and financial supervision of the administration machinery by a competent public authority. It is again clarified that sickness benefit granted under this convention shall not affect the obligations arising out of the convention relating to women and the maternity benefits. The convention was revised by 1969 convention.

- b. Sickness Insurance (Agricultural) Convention, 1927

This Convention is simultaneously adopted along with convention No.24 relating to the same benefit in respect of workers working in industries, commercial undertakings and domestic servants. This convention has been revised in 1928. The provisions of this convention are similar to that of Sickness Insurance (Industrial) Convention, 1927 but mainly aim at manual and non-manual workers, employed by agricultural undertakings.

- c. Medical Care and Sickness Benefits Convention, 1969

This Convention is concerning medical care and sickness benefit. It revised two earlier 1927 convention relating to sickness insurance industry and agricultural conventions. This document contains 45 articles. This convention regulates the protection of worker in respect of entitlement to medical care of a curative and preventive nature and compensation for loss of earning through sickness. Ratifying states are responsible to secure the provision of medical care and sickness benefit to employees or prescribed classes of persons. Medical care can also be extended to wives and children of persons covered and must include in particular hospitalization, pharmaceutical and

⁶ Ratified by 3 countries.

⁷ Convention No.102.

⁸ Part II of the Convention

⁹ The insured and their employers shall share financial resources of Sickness Insurance Scheme

surgical supplies and dental treatment. Sickness benefit must be periodical payment and be reckoned, as regards the wage of male member of beneficiary's previous earnings or at a sufficient rate to maintain the beneficiary's family in health and decency. Benefits must be available equally to nationals and non-nationals. The rate of cash benefits payable to the standard beneficiary ^[10] should not be less than 60% of the earnings of the class of employees to which the beneficiary belongs. Part IV deals with common provision and specific conditions under which a protected person is not entitled to benefits.

C. Recommendations

Social Insurance (Agricultural) Recommendation, 1921 and Sickness Insurance Recommendation, 1927 are superseded by 1969 convention. The persisting recommendation is: Medical Care Recommendation, 1944

This Convention details the concept of medical care as a guarantee for all members of the community whether gainfully occupied or not i.e., deriving from every person's right to health. It lays down general principles to be followed by states in developing medical care services and organization and administration of such services. It contains provision on a number of important aspects not dealt within the 1969 convention on Medical Care and Sickness Benefit.

D. Maternity Benefit

a. Convention on Women, 1919

ILO as early as 1919 itself in its first session adopted this convention ^[11]. It contains 12 articles to provide protection to the women workers who are in their family-way, to stay at home with appropriate health care, away from work place. They are also conferred with right to certain maternity benefits before and after child birth.

According to Article 2 of the convention, women signify any female person, irrespective of age or nationality, whether married or unmarried and the child means legitimate or illegitimate. Article 3 lays down that in any private or public, industrial or commercial undertakings or in any branch thereof a woman shall not be permitted during 6 weeks following her confinement. She should be made entitle to leave up to 6 weeks before confinement. During the period of absence from work she shall be paid benefits sufficient for the full and healthy maintenance of her and her child from an insurance system or from public funds as determined by a competent authority. There are provisions in the convention dealing with illness arising out of her pregnancy or confinement. This article prevents a notice of dismissal and makes such a notice unlawful if her absence is due to illness during pregnancy or resulted out of pregnancy or confinement. This convention was revised in 1952 and adopted convention No.103 concerning maternity protection. However, the revision of this convention did not affect the applicability and still it is open for ratification.

b. (b) Maternity Protection Convention, 1952

It covers industrial undertakings and non-industrial and agricultural occupations, including home workers and domestic servants. It aim to secure to women workers a substantial period of leave with subsistence and medical benefits before and after confinement and safeguard their continued employment i.e., more than what is provided for in the earlier convention.

c. Maternity Protection (Agricultural) Recommendation, 1921

It was superseded by 1952 revised Maternity Protection Convention. Maternity Protection Recommendation 1952 is supplementary to 1952 Maternity Protection Convention. It suggests possible improvements on the protection provided under the Convention like extension of maternity leave to a total of 14 weeks, higher rate of cash benefits, more exclusive medical care. It also recommends prohibition of the employment of pregnant women and young mothers on specified type of work prejudicial to their health.

▪ Invalidity Old Age and Survivor's Benefit

Old Age Insurance (Industry etc.) Convention, 1933, Old Age (Insurance) Agricultural Convention, 1933, Invalidity Insurance (Industry etc) Convention, 1933 ^[12], Invalidity Insurance (Agricultural) Convention, 1933 and Survivors Insurance (Industry etc.) Convention, 1933 have been revised by Invalidity Old Age and Survivors Benefit Convention 1967 and the previously stated Conventions are not now open for ratification.

a. Invalidity Old Age and Survivor's Benefit Convention, 1967

ILO adopted this convention ^[13] in its 51st session. It is a comprehensive document which has revised the earlier 6 conventions which were adopted by ILO in 1933. Any member country which has ratified the earlier Convention but does not ratify this revised convention, shall continue to be bound by earlier convention till it denounces any of them. This Convention specifically deals with invalidity benefits, old age benefits, survivor's benefit and general standards to be complied with periodic payments etc.

The member countries which ratify the convention can comply with provisions of Part I and at least one of Part II, III or IV dealing with Invalidity Benefits, Old Age Benefits and Survivor's Benefit. It should also comply with relevant parts of other provision. According to this Convention invalidity benefit shall be periodical payments to the protected employees in accordance with the requirements of the Convention. Old age benefit and survivor's benefit also shall be periodical payments calculated as prescribed in the Convention. The rate of periodical payment shall be determined by competent public authority in conformity with the prescribed rules. In the schedule to the Part V of the Convention dealing with the periodical payments to standard beneficiaries is tabulated. The period during which the invalidity benefit is payable is specified in the convention and it shall be granted throughout the contingency or until old age benefit becomes payable. However the benefits, i.e., invalidity, old age and survivors may be suspended under prescribed conditions where the beneficiary is engaged in gainful activity.

b. Recommendation Concerning Invalidity, Old Age and Survivor's Benefit, 1967

It is supplementary to the Convention relating to Invalidity Old Age and Survivor's Benefit. It calls for the extension of protection to persons whose employment is of casual nature and to all economically active persons. It also covers invalid and dependant widower for survivor's benefit.

¹⁰ The standard is taken on 'mean bar' with wife and two children

¹¹ 33 countries ratified this Convention.

¹² Convention No.35, 36, 37, 38, 39 and 40.

¹³ Ratified by 16 states.

▪ Employment Injury Benefit
a. Workmen's Compensation (Agriculture) Convention, 1921

This Convention aims at providing compensation in occupational accidents to agricultural workers arising out of and in the course of employment.

b. Workmen Compensation (Accidents) Convention, 1925

This Convention ^[14] aims at providing compensation to workers injured in industrial accidents. The injured worker is entitled to medical, surgical and pharmaceutical aid at the cost of employer or insurance institution including the supply and renewal of surgical appliances. If the worker is permanently incapacitated or dead, he or his dependants are entitled to compensation as periodical payments. The periodical payment may be converted with lump sum in exceptional cases and must be increased if the worker needs the constant help of another person. The states are under obligation to frame legislation for safeguarding in all circumstance the payment of compensation in the event of insolvency of the employer or insurer. National legislation must provide for supervisory measures to prevent abuses. This convention is revised by Employment Injury Benefit Convention, 1964 still open for ratification.

c. Workmen's Compensation (Occupational Disease) Convention, 1925

This Convention provided details of such diseases, their nature and cause which have to be considered as occupational diseases having arose out of the respective employments. The Conventions contemplates that compensation shall be payable to workman incapacitated by occupational diseases or in case of death from such diseases to their dependants. This Convention provides a schedule of occupational diseases and of substances which cause occupational diseases. It was revised in 1934 which added some more to the list.

d. Convention on Equality of Treatment (Accident Compensation) 1925

This Convention contemplates equality of treatment for national and foreign workers as regards workmen's compensation for accidents. The member country has to assure the foreign sufferer of personal injury due to industrial accidents happening in its territory, or to their dependants, the same treatment as to that of national in respect of compensation.

e. (e) Employment Injury Benefits Convention, 1964

This Convention contains 39 articles, one schedule and one annexure. This regulates the compensation for injuries resulting from industrial accidents and occupational diseases. The Convention lays down the criteria of eligibility and dependence for availing the benefit of compensation. It lays down standards in respect of contingencies to be covered, contents duration, rates etc. of the benefits to be provided in case of employment injury caused by accidents and occupational diseases.

Each member country which ratifies this Convention is required to prescribe a definition of industrial accident including the conditions under which a commuting accident is considered to be an industrial accident. Each member country also has to describe the list of diseases which shall be regarded as occupational diseases which shall be regarded as occupational diseases under prescribed

conditions.

The Convention prescribes the nature of medical care and allied benefits which should be available to the injured workman. Medical benefits include not only services of a medical practitioner and hospitals but also dental, pharmaceutical and other surgical supplies. It also prescribes that the employer should provide at the place of work facilities for emergency treatment of persons sustaining a serious accident. The Convention also prescribes for cash benefits in respect of loss of earning capacity, periodically or lump sum, for its proper utilization by the injured workman. The compensation in case of the death of the workman is prescribed in the nature of periodical payments to the widow or a disabled and dependant

widower and it also provides for funeral expenses. Ratifying states also promote occupational safety and health, and provide rehabilitation and placement services for disabled persons. The Convention is appended with a schedule which enumerated the list of occupational diseases and corresponding work involving exposure to risk.

▪ Recommendations

1. Workmen's Compensation (Minimum Scale) Recommendation, 1925.
2. Workmen's Compensation (Jurisdiction) Recommendation, 1925.
3. Workmen's Compensation (Occupation Diseases).

Recommendations 1 and 2 are supplementary to Workmen's Compensation (Accidents) Convention, 1925 and it provides for minimum rates of compensation and defines surviving dependents entitled to compensation. Recommendation calls for the submission of disputes on workmen's compensation to special courts or boards of arbitration on which employers and workers are equally represented and for recourse to expert advice on question involving degree of incapacity for work.

Recommendation is supplementary convention, relating to occupational diseases. It calls on member state to adopt a simple procedure for revising the list of occupational diseases in their national legislation. All the three are super ceded by Employment Injury Benefits Convention, 1964 and Recommendation Supplementary to this Convention.

▪ Employment Injury Benefit Recommendation, 1964

This recommendation is supplementary to the Convention 1964 and it envisages the extension of coverage to members of co-operatives, self-employed persons, those engaged in small scale business or firms or those undergoing training for future occupational employment or trade. It is also recommended to other member of voluntary bodies engaged in combating natural disasters, with saving lives and property or with maintaining law and order. It calls for periodical adjustment of rates of cash benefits payable under the Convention in case of total loss of earning capacity.

▪ Unemployment Benefit

a. Unemployment Provision Convention, 1934

This convention was adopted to ensure benefit or allowances to the involuntary unemployed persons. This Convention was ratified by 14 countries but later revised in 1988 and the former one is not open for ratification now.

The Convention consists of 23 articles dealing with various aspects of providing unemployment benefit, condition for eligibility and the period for which such employment benefit is payable and also the event on the happening of

¹⁴ Convention No.12.

which such unemployment benefit ceases to continue.

The Convention contemplates that each member state of the ILO which ratifies this Convention shall undertake to maintain a scheme for the payment of benefit to the persons who are involuntary unemployed. Such schemes can be

b. Convention on Employment Promotion and Protection against Unemployment, 1988

This Convention came into force in 1991. It is a comprehensive convention consisting of 39 articles which are divided into IX parts and provides a detailed scheme suitable for any enactment.

- Part I deals with general provision and calls upon every member to take appropriate steps to co-ordinate its system of protection against unemployment and its policies relating to employment.
- Part II deals with full productive and freely chosen employment. It envisages that each member shall endeavor to establish special programmes to promote additional job opportunities and employment assistance and encourage freely chosen and productive employment for identified categories of disadvantaged persons having difficulties in finding lasting employment.
- Part III details the contingencies to be covered by such schemes which include loss of earning due to partial unemployment, suspension or reduction of earning, etc.
- Under Part IV the persons covered are identified which include not less than 85% of all employees including public employees and apprentices.
- Part V explains the methods of protection and such methods may consist of contributory or non-contributory systems or a combination of both.
- Part VI specifies various benefits to be provided. It deals with the quantum of benefit, qualifying period, calculation of periodical payments and other conditions that may be prescribed for availing the benefit. It also provide for duration of any benefit including medical benefit and conditions under which such benefits can be varied or suspended.
- Part VIII consists of special provisions for new applicants for employment such as young persons who have completed their vocational training or their studies, divorced or separated persons, released prisoners, adults including disabled persons or previously employed persons.
- Part IX provides for legal administrative and financial guarantees including any procedure for settlement of any dispute or claim.
- Part X, the last part, deals with final provisions dealing with ratification, its binding effects, duration, denunciation etc.

c. Recommendation

Employment Promotion and Protection against Unemployment Recommendation, 1988

This recommendation is supplementary to the Convention 1988. It deals with general provision and promotion of productive employment, protection of unemployed persons and the development and improvement of systems of protection. It calls upon member states to work out their national policy for the promotion of full, productive and freely chosen employments. The ILO offers its co-operation

and technical advice for better implementation of the social security schemes for unemployment benefits and also to set up a national provident fund to provide periodical cash payments to the holders of the account in the fund.

- Normative Framework of Social Security Evolved from ILO Documents In 1944,

ILO in its 26th Session convened Philadelphia Recommendation relating to social security^[15]. and evolved certain guidelines for the income security in the event of certain contingencies like sickness, maternity, invalidity, old age etc. This convention was actually adoption of Atlantic Charter of UN which declares contemplates fullest collaboration between all nations in economic field for securing improved labor standards, economic advancement and social security to all. In this recommendation, ILO declares that income security is an essential element of social security and compensation has to be provide for accidents, occupational diseases, sickness, maternity benefits, old age, invalidity and widow's and orphans' pension and provision for unemployment.

The delegation of governing body adopted the declaration of Santiago de Chile and established a permanent agency for ensuring cooperation between social security administrations and institutions functioning in connection with ILO. Thus International Social Security Association works effectively in framing and implementing solution for contemporary problems in social security system.

Article 9 of the UN International Covenant on Economic Social & Cultural Rights provides for everyone's right to social security, including social insurance. ICESCR's preparatory works are silent about the history of this article. The basic issue of establishing a normative content of right to social security has not been addressed by human right literature. Since the adoption of ICESCR, the implementation and promotion of the right to social security has been seen as the unique task of ILO and ILO Conventions remain at the centre of process of defining the right to social security. Hence it is highly necessary to examine what are the convention relating to social security, what is the role of ILO and what is its impact in India.

The ILO's work and the standards it has developed remain the most important source of interpretation in defining social security as a right. As stated earlier, ILO was born out of the concern of states, unions and employers representatives that peace could not be achieved without devoting sufficient attention to creating the condition for social justice.

The Legislative body of ILO sickness, maternity benefits, old age, invalidity and widow's and orphans'pension and provision for unemployment. The delegation of governing body adopted the declaration of Santiago de Chile and established a permanent agency for ensuring cooperation between social security administrations and institutions functioning in connection with ILO.

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¹⁵ Income Security Recommendation, 1944.

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These are Convention on Workmen's Compensation adopted in 1925, Convention on Sickness Insurance adopted in 1927, Convention on Old Age, Invalidity and Survivors Insurance adopted in 1933, Convention on Unemployment Provision adopted in 1934. The notion of social risk involves sickness and medical care, unemployment, old age benefits, worker compensation, family and maternity benefits disability and survivors benefit. Social Security (Minimum Standards) Convention 1952

▪ Protected Class of Persons

All social security conventions adopted by the ILO have a difficulty in defining the protected class of people or persons. ILO has always tried to expand the categories of persons covered while member states have tried to limit the prescribed categories to a percentage of waged workers or residents. The Social Security (Minimum Standard) Convention aims at providing social security benefits. Ensuring a person's right to live in a healthy and decent conditions and hence the implementation requires the right to access to all.

▪ Part XI of the Social Security (Minimum Standard) Convention, 1952

and workers in informal sector who often exercise several economic activities. This poses as a drawback to the present system. In 1995, International Society Security Association effectively summarized contemporary problems confronting the model of social security.

Cut back in benefits, privatization systems, the need for efficient protection in transnational countries and the impact of structural adjustments programmes in developing countries were among them. In 1998,

As against this, social protection has been the historical goal of social security regime which is seen as specific mean of promoting social protection.

The increasing poverty over the world governs the quest for comprehensive approach to both social protection and social security. Such an approach would facilitate social cohesion and inclusion, and protect individuals from social risks. Since beginning of 1990s,

The Conference finds the essentials of social security to be provided to all are:

1. the provision of benefits to households and individuals
 2. Through public or collective arrangements
 3. Aimed at protecting against low or declining living standard and
 4. That arises from basic risks and needs. Informal Workers and Social Security Needs The social security needs of informal workers include
 1. Health care costs
 2. Survivors benefits
 3. Disability benefits
 4. Maternity and child care benefits (all four addressed by 102 conventions).
- The proposals⁶⁰ by ILO for evaluating existing previously established schemes are
1. improving the access to basic health services by means of government financial supply of services in terms of types of service in an equitable manner;
 2. promoting self financial social insurance after having identified the limits and the viability of public and private insurance schemes;
 3. evaluating existing programmes in terms of administrative costs per beneficiary;
 4. analyzing the cost-effectiveness of social security programmes compared with other anti-poverty programmes such as employment guarantee schemes and food subsidies to consumers;
 5. analyzing the role of social assistance programmes and their relationship to other anti-poverty means; and
 6. extending formal sector social security schemes.
- Minimum Content of Right to Social Security
- The right to social security, as guaranteed in the ICESCR, makes no reference to the ILO Conventions on social security. Although it is important not to depart from its historic roots to understand this right, it is nevertheless possible to offer a minimal definition that is more flexible than the one proposed in ILO conventions. human right agencies and NGO (working in the field) as a guiding principle are:
1. **The model: Social security as a human right not as a commodity**, relies on collective funding. This can be of different types: public, professional or community. In all these cases, it is a basic and minimal requirement of the right that it be supervised by an independent, participatory and regulated body.
 2. **Contribution and Benefits:** The benefits must be defined in advance, along with contributions that do not exceed a reasonable percentage of available income (whatever its source) how small or minimal the benefit it is.
 3. **Risks:** According to the principle of inter-dependence of all human rights, and in order to implement the right to social security as well as the right to an adequate standard of living in Article II of ICESCR risks related to health care, sickness benefits, survivor's benefits and maternity benefits must be given priority.
 4. **Coverage:** States are to undertake negotiations with civil society aimed at guaranteeing social security for all, including the self-employed, rural workers and

Workers in the informal sector. Provision must be made for periods of time when the insured person, family or group is not able to contribute to the system. In all case social security programmes should be subject by law to such requirement.

5. **Discrimination:** In accordance with the comment adopted by the ICESCR and in view of the fundamental nature of the right to be protected from discrimination states will: Create an advisory body whose mandate is to identify direct and indirect discriminatory effect of the social security system and to suggest ways of implementing more inclusive patterns. Guarantee them that human rights codes will apply to all dimensions of social security system. The right to benefit equally from social security will include protection from discrimination based on source of income.

▪ **ILO and India: An Appraisal**

Among all these Conventions, India ratified only four Conventions^[16] They are:

1. Workmen's Compensation (Occupational Diseases) Convention, 1925;
2. Equality Treatment (Accident Compensation), 1925;
3. Workmen's Compensation (Occupational Diseases) Revised Convention, 1934; and
4. Equality of Treatment (Social Security) Convention, 1962. ILO, organization committed to the case of social justice, India a welfare state committed to the same goal. The approach of India with regard to international labour standards always has been positive..

Conclusion

From the colonial era till independence and even after that almost all the labour welfare legislations in India are preceded or supported by ILO documents or publications. During the period 1942-1951 many committees were appointed for advancing social security of labour force and these decisions were influenced by ILO publications. Them Commission on Social Security appointed in 1943 which was headed by Professor A darkar filed a Report and ILO appointed experts to review that report. This report formed the basis of Employees' State Insurance Act, 1948 which is providing basic social security benefits such as sickness benefit, disablement benefit, maternity benefit, dependant's benefit and funeral expenses.

Though India has not ratified even the flagship ILO Convention on Social Security⁶⁸ all the nine areas identified in the convention and other related conventions are made part of social security schemes in India. It is reasonable to conclude that India has incorporated the obligation contemplated in the ratified and un ratified Conventions through the Constitution and legislations. However, the OECD Report says that nine out ten employees in India are out of social security coverage. The next chapter deals with India's role in providing social security of labour in detail.

References

1. This is done by providing creative solutions to the social security problems. See supra, 2:3.
2. ILO. Standards have formed the basis for much social

and labour legislations enacted in this century. See supra, 1(17).

3. Convention No.102.
4. Part II of the Convention
5. Convention No.118.
6. Ratified by 3 countries.
7. Convention No.102.
8. Part II of the Convention
9. The insured and their employers shall share financial resources of Sickness Insurance Scheme
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11. 33 countries ratified this Convention.
12. Convention No.35, 36, 37, 38, 39 and 40.
13. Ratified by 16 states.
14. Convention No, 12.
15. Income Security Recommendation, 1944.
16. Johnwood. International Labour Organization Convention: Labour Code or Treaties?140 I.C.L.Q, 1991, 649-657.

¹⁶ Johnwood, —International Labour Organization Convention: Labour Code or Treaties?140 I.C.L.Q. pp.649-657(1991)