



Social Security: Laws that leave the workers out

Context:

- If the informal workers, who constitute 91% of the workforce, had a social security (including free basic curative care in public clinics and hospitals, the elderly had old age pensions, the dying had death/disability insurance or life insurance) – it would save them from being hapless as the Covid-19 pandemic rages on.
- India's Parliament in September 2020 passed a Social Security Code (SS Code 2020) along such lines.

Relevance:

GS-II: Social Justice (Government Interventions and Policies, Issues arising out of the design and implementation of Government Policies)

Mains Questions:

Is the universalisation of social security an unfulfilled aspiration? To what extent does the Social Security Code 2020 provide free and basic Social Security to the workers in the unorganised sector? (15 marks)

Dimensions of the Article:

1. What is Social Security?
2. Highlights of the Code on Social Security Bill, 2020
3. Issues and Gaps in the SS code



What is Social Security?

- Social security is “any government system that provides monetary assistance to people with an inadequate or no income”.
- It refers to the action programs of an organization intended:
 1. to promote the welfare of the population through assistance measures guaranteeing access to sufficient resources for food and shelter and
 2. to promote health and well-being for the population at large and potentially vulnerable segments such as children, the elderly, the sick and the unemployed.
- Services providing social security are often called social services.

Highlights of the Code on Social Security Bill, 2020

- The Code on Social Security Bill, 2020 replaced nine social security laws, including Maternity Benefit Act, Employees’ Provident Fund Act, Employees’ Pension Scheme, Employees’ Compensation Act, among others.
- The code universalizes social security coverage to those working in the unorganised sector, such as migrant workers, gig workers and platform workers.
- Definition of employee and categorization of workers covers all kinds of employment including part-time workers, casual workers, fixed term workers, piece rate/ commission rated workers, informal workers, home-based workers, domestic workers and seasonal workers.
- **For the first time, provisions of social security will also be extended to agricultural workers also.**
- A proper percentage-based structure for contribution, vis-à-vis socio economic category and minimum notified wage, has been put in place under the Code.
- It introduces new approaches to ensure a transparent and fair financial set up, such as:
 1. Time bound preparation of Accounts within six months of the end of the financial year;
 2. Provision for social audit of social security schemes by State Boards after every five years;
 3. Accounts of Intermediate Agencies to be subject to CAG Audit on the same lines as that of Social Security Organizations.
- Wage Ceiling and Income Threshold: The term ‘wage ceiling’ is for the purpose of determining a maximum limit on contribution payable; whereas the term ‘income threshold’ is for the purpose of enabling the government to provide for two different kind of schemes (for same purpose) for two different class of workers.
- Contribution Augmentation Funds would be established through which governments could contribute to the social security in respect of workers who are unable to pay contribution.
- National Stabilization Fund will be used for harmonizing the Scheme Funds across the



country and will be managed by the Central Boards.

Why Labour code on Social Security and Welfare is needed?

Almost 90% of the current workers are not covered under any social security.

The current thresholds for wage and number of workers employed for a labour law to be applicable creates tenacious incentives for the employers to avoid joining the system which results in exclusions and distortions in the labour market.

Issues and Gaps in the SS code

1. **For Organised sector only:** The SS Code does not have free basic curative health care in its scope. Of the 8 existing central labour laws that the SS Code 2020 amalgamates, employees provident fund, employees state insurance (ESI), maternity benefit, gratuity are entirely for organised sector workers. – This has remained so even in the new scheme of things.
2. **Ambiguity:** For employees' state insurance, the existing employee threshold has been withdrawn and now the central government can extend ESI benefits to any organisation irrespective of the number of workers employed therein. However, there are areas of ambiguity and overlapping too. The SS Code proposes that both the central and State governments will formulate schemes for unorganised workers.
3. **Need for registration:** The legal framework as proposed in the Code and Rules, implies that the basic onus lies on informal workers registering as beneficiaries. Registration is a prerequisite for universal coverage. To avail social security, an informal worker must register herself on the specified online portal to be developed by the central government.
4. **Further complications due to existing norms:** Similar provisions are already there in existing social security schemes run by State governments under the Unorganized Workers' Social Security Act, 2008. Still, a large number of informal workers are outside the ambit of any social security even after 13 years. The absence of definite and unambiguous provisions in the present code would further complicate achievement of universal registration.
5. **Lack of awareness:** Also, experience shows that there is an awful lack of awareness among informal workers regarding social security schemes. Online registration places a further challenge as most informal workers lack digital literacy and connectivity (already demonstrated by a similar registration requirement for COVID-19 vaccines under CoWIN, the government app).
6. **Lack of Documents:** Informal workers also find it difficult to furnish all documentary



papers required as part of the registration process. Most informal workers are footloose casual workers (26% of all workers) and self-employed (46% of all). They move from one place to another in search of livelihoods. Furnishing proof of livelihood and income details in the absence of tangible employer-employee relations is very difficult.

7. **Lack of Provisions regarding cooperation:** Further, as unorganised workers are spread across the length and breadth of India, inter-State arrangement and cooperation becomes imperative. The code does not provide for such eventualities.
8. **Lost Opportunity in Maternity benefit:** Under the SS Code, the provision of maternity benefit has not been made universal. Maternity benefit is presently applicable for establishments employing 10 workers or more. The definition of 'Establishment' in the proposed code did not include the unorganised sector. Hence, women engaged in the unorganised sector would remain outside the purview of maternity benefit.
9. **Lost Opportunity in Employees Provident Fund:** The SS Code maintains that the Employees' Provident Fund Scheme will remain applicable, as before, to every establishment in which 20 or more employees are employed. Thus, for informal sector workers, access to employees' provident fund remains unfulfilled too in the new code.
10. **Lost Opportunity in Payment of gratuity:** Gratuity shall be payable to eligible employees by every shop or establishment in which 10 or more employees are employed, or were employed, on any day of the preceding 12 months. But although payment of gratuity was expanded in the new Code, it still remains inaccessible for a vast majority of informal workers.

-Source: The Hindu