



## International Human Dignity and Social Justice-Social Security Approach

<sup>1</sup>Mr. Fakkires S. Sakkarnaikar, <sup>2</sup>Dr. Shobhalata Udapudi

<sup>1</sup>Assistant Professor, <sup>2</sup>Professor

Gujarat National Law University, Gandhinagar, Gujarat (INDIA)

**Abstract:** *The concept of social security is based on the ideas of human dignity and social justice. According to the First National Commission on Labour the underlying idea behind social security measures is that a citizen who has contributed or is likely to contribute to his country's welfare, should be given protection against certain hazards. As a part of society, every individual has some contribution to it. The collective contribution indicates the welfare and progress of the society.*

**Key Words:** *Social Security; Human Right; Justice; Human Dignity; Progress of the Society*

Sir Williams Beveridge<sup>1</sup> aptly observed:

“The term social security is used to denote the security of an income to take the place of earnings, when they are interrupted by unemployment, sickness or accident, or to provide for retirement through age or to provide loss of support by the death of another person, and to meet exceptional expenditure such as those connected with birth, death and marriage”<sup>2</sup>

The concept of social security is based on the ideas of human dignity and social justice. According to the *First National Commission on Labour* the underlying idea behind social security measures is that a citizen who has contributed or is likely to contribute to his country's welfare, should be given protection against certain hazards. As a part of society, every individual has some contribution to it. The collective contribution indicates the welfare and progress of the society. When the positive contribution increases, society is said to be a developing society. The development of the society indicates the welfare of the country.<sup>3</sup>

### International Labour Organization

International Labour Organization (ILO) is one of the 12 specialized agencies of UNO.<sup>4</sup> It has the most effective and well-developed mechanisms for human rights protection in the international system. The preamble of ILO states the objective of ILO is to regulate the hours of work including the establishment of maximum working days and weeks, the regulation of labour supply, the prevention of unemployment, the provision of adequate living wage, the protection of workers against sickness, disease and injury arising out of his employment, the protection of children, young persons and women, provisions for old age and injury, recognition of the principle of equal remuneration for work of equal value, recognition of the principle of freedom of association, the organization of vocational and technical education and such other measures.

The declaration of ILO categorically states that ILO frames the international industrial jurisprudence. It envisages measures for entering agreements on basic labour standards and provides guiding principles of policy and administration throughout the world. First World War caused a set back to industries. Failure of some of the nations to adopt human conditions of labour was seen as an obstacle in the way of other nations, which desired to improve the labour security conditions in their own countries. In these circumstances it was realized that permanent world peace could not be achieved by achievement of political and economic justice alone, but that it required securement of social justice also. Workers' well being, regulation of labour supply, the prevention of unemployment, provision for adequate living wage, protection of weaker sections, sickness, disease, injury, old age and of young persons and

<sup>1</sup> In 1941, William Beveridge one of the Britain's leading economist, was asked by Winston Churchill's government to look at the problems of building a post-war Britain and was also asked to consider how the various social security schemes could be harmonized. His report covered the five threats to society: Want, Ignorance, Disease, Squalor and Idleness. Available at <<http://www.ssa.gov/history/briefhistory3.html>> the official website of the US Social Security Administration accessed on 16 May 2012.

<sup>2</sup> Julian Fulbrook, *Law at Work: Social Security*, (Sweet and Maxwell, London 1980) 16

<sup>3</sup> First National Commission on Labour (1969) under the Chairmanship of Justice Gajendragadkar,

<sup>4</sup> United Nations Organization.

women led to the creation of ILO in 1919 as a part of League of Nations by Part XIII of the Treaty of Versailles.<sup>5</sup> The Treaty is “the first known to history for containing a provision dealing with labour” and provide for establishing a standard setting mechanism called ILO.

ILO is distinct from other international institutions as its major concern is social justice. The aims and purposes of this institution were reaffirmed in 1944 through Philadelphia Charter.<sup>6</sup> In 1946, ILO and United Nations made agreement and ILO was recognized as a specialized agency of UN. In the era of UN, there was more attainment of social justice as an aim of International co-operation and cooperative actions.

The Philadelphia Charter sets the fundamental principles upon which the ILO is based. They are: (a) Labour is not a commodity; (b) Freedom of expression and the association are essential to sustained progress; (c) Poverty anywhere constitutes a danger to prosperity everywhere; and (d) The war against want requires to be carried on with unrelenting vigor within each nation and by continuous and corrected international effort in which the representatives of workers and employers enjoy equal status with those of government joining in them in free discussion and democratic decision making with a view to the promotion of common welfare.

The Charter affirms that ‘lasting peace can be established only if it is based on social justice’ and the conference affirms that all human beings have right to pursue their material well being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity. The International Labour Conference recognizes the solemn obligation of ILO to further among the nations of the world programmes which will achieve:-

- (i) a full employment and raising of standard of living;
- (ii) the employment of workers in which they can have the satisfaction of giving the fullest measure of their skills and attainments and make their greatest contribution to the common well-being;
- (iii) facilities for training and transfer of labour for employment and settlement;
- (iv) policies with regard to wages and earning hours and other conditions of work calculated to ensure a just share of the fruits of progress to all and minimum living wage to all employed and all in need of such protection;
- (v) official recognition of collective bargaining, co-operation of management and labour;
- (vi) provision for child welfare and maternity protection;
- (vii) assurance of equality of educational and vocational opportunity;
- (viii) provision for adequate nutrition, housing and facilities for recreation and culture;
- (ix) adequate protection of life and health of all workers in all occupations; and
- (x) extension of social security measures to provide basic income to all in need of such protection and comprehensive medical care.

In this declaration, ILO emphasizes states’ social commitment to the upliftment of working class and affirms the right of workers for decent living. While recognizing these rights, ILO actually assures a living with human dignity which is one of the basic human rights.

Its (ILO) fundamental purpose is to give individuals and families the confidence that their level of living and quality of life will not, insofar as is possible, be greatly eroded by any social or economic eventuality. This involves not just meeting needs as they arise but also preventing risks from arising in the first place, and helping individuals and families to make the best possible adjustment when faced with disabilities and disadvantages which have not been or could not be prevented.

In the Beveridge Committee Report (1942)<sup>7</sup>, Social Security was defined as “*Freedom from Want*”.

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<sup>5</sup> The Treaty of Versailles was the peace settlement signed after World War One had ended in 1918 and in the shadow of the Russian Revolution and other events in Russia. The treaty was signed at the vast Versailles Palace near Paris - hence its title - between Germany and the Allies. The three most important politicians there were David Lloyd George, Georges Clemenceau and Woodrow Wilson. Available at <<http://www.ilo.org/public/english/support/lib/century/content/1944.htm>> accessed on 24 April 2012.

<sup>6</sup> The Philadelphia Declaration, which prefigured and served as a model for the United Nations Charter and the Universal Declaration of Human Rights, remains the charter of ILO’s goals and principles. The recommendations set out in the Declaration are to be considered from the broadest possible point of view: they concern not only the world of labour but also human beings as a whole. The Declaration directly addresses “all human beings, irrespective of race, creed or sex”. Available at <<http://www.ilo.org/public/english/support/lib/century/content/1944.htm>> accessed on 24 April 2012.

<sup>7</sup> In 1941, William Beveridge one of the Britain’s leading economist, was asked by Winston Churchill’s government to look at the problems of building a post-war Britain and was also asked to consider how the various Social Security schemes could be harmonized. His report covered the five threats to society: Want, Ignorance, Disease, Squalor and Idleness. Available at <[www.bbc.co.uk/history/ww2peopleswar/timeline/.../a1143578.shtml](http://www.bbc.co.uk/history/ww2peopleswar/timeline/.../a1143578.shtml)> accessed on 12 Nov, 2012.

Unexpected life circumstances, the loss or reduction of productive capacity, and discrimination can hinder a person's or a family's well-being. Everyone needs protection from social risks and resulting insecurities. Social Security benefits are powerful tools to combat poverty and inequality, and to invest in social and economic development. As such, they are key to achieve the Millennium Development Goals<sup>8</sup> (MDGs) targets. Under international human rights law, States are legally obligated to establish social protection systems. This duty flows directly from the *right to social security*, which is articulated in Article 22<sup>9</sup> of the *Universal Declaration of Human Rights* and in Article 9<sup>10</sup> of the *International Covenant on Economic, Social and Cultural Rights (ICESCR)*. Social protection systems should protect individual women, men and children against the risks of impoverishment in situations of sickness, disability, maternity, employment injury, unemployment, old age, death of a family member, high health care or child care costs, and general poverty and social exclusion. Social protection measures can include e.g. cash transfer schemes, public work programmes, school stipends and lunches, social care services, unemployment or disability benefits, social pensions, food vouchers and food transfers, user fee exemptions for health care or education, and subsidised services.

Under the ICESCR, States are prohibited from deliberately taking any *retrogressive measures*, including in regard to the right to social security, unless they can prove that they have only been introduced after the most careful consideration of all other alternatives, and that they are duly justified by reference to the totality of the rights stipulated in the Covenant. The significant financial implications of the right to social security do not justify allowing the State to dispense with its obligation to give appropriate priority in law and policy to social security. If necessary, developing countries should *seek international cooperation and technical assistance* to realise progressively the right to social security.<sup>11</sup>

One of the major contributions of General Comment No. 19 is the understanding that all States have a minimum core obligation to provide some form of basic social security. As noted by the ICESCR, States have the immediate duty:

*“to ensure access to a social security scheme that provides a minimum essential level of benefits to all individuals and families that will enable them to acquire at least essential health care, basic shelter and housing, water and sanitation, foodstuffs, and the most basic forms of education. If a State party cannot provide this minimum level for all risks and contingencies within its maximum available resources, the Committee recommends that the State party, after a wide process of consultation, select a core group of social risks and contingencies.”*<sup>12</sup>

In other words, a State must immediately meet a minimum standard and then progressively realise an adequate level of benefits over time. In order for a State party to be able to attribute its failure to meet at least its minimum core obligations to a lack of available resources, it must demonstrate that *every effort* has been made to use all resources that are at its disposal in an effort to satisfy, as a matter of priority, these minimum obligations.<sup>13</sup>

Two of the most influential programmes are the United States' 1935 Social Security Act and the Social Security Programme implemented in the UK, summarised in the 1942 Beveridge Report. These programmes established the basis for modern forms of social security, *defined by the International Labour Organisation (ILO) as “the protection which society provides for its members through a series of public measures against the economic and social distress that otherwise would be caused by the stoppage or substantial reduction of earnings resulting from sickness, maternity, employment injury, invalidity and death; the provision of medical care; and the provision of subsidies for families with children”*.

An essential means of action available to the ILO for the realization of its mandate of extending social security to all is the setting of International Labour Standards. Since 1919, the ILO has adopted 31 Conventions and 23

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<sup>8</sup> The Millennium Development Goals (MDGs) are eight international development goals that were established following the Millennium Summit of the United Nations in 2000, following the adoption of the United Nations Millennium Declaration. All 189 United Nations member states and at least 23 international organizations committed to help achieve the Millennium Development Goals by 2015, the goals follow: To eradicate extreme poverty and hunger, To achieve universal primary education, To promote gender equality and empowering women, To reduce child mortality rates, To improve maternal health, To combat HIV/AIDS, malaria, and other diseases, To ensure environmental sustainability, To develop a global partnership for development. Available at <<http://www.un.org/millenniumgoals/global.shtml>> accessed on 20 Jan 2013.

<sup>9</sup> *Article 22* - Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

<sup>10</sup> *Article 9*- The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

<sup>11</sup> *Covent on Economic, Social and Cultural Rights, General Comment No. 19, Para 52*

<sup>12</sup> *ibid* Para 59

<sup>13</sup> *ibid* Para 60

Recommendations in this area, which have greatly contributed to the development of social security as a Universal Human Right notably by laying down specific obligations and guidelines for Member States<sup>14</sup>.

In 2002, the ILO Governing Body confirmed eight out of these 31 Conventions as up-to-date social security conventions. Most prominent among these is the *Social Security (Minimum Standards) Convention, 1952 (No. 102)*<sup>15</sup>. It is the only International Convention that defines the nine branches<sup>16</sup> of social security, sets minimum standards for each of these branches, and lays down principles for the sustainability and good governance of those schemes. *Another important feature of this Convention is that it contains flexibility clauses, thereby allowing ratifying member States to accept as a minimum three out of the nine branches of social security, with at least one of those three branches covering a long-term contingency or unemployment, so as to allow as many countries as possible to comply with the requirements laid down in the Convention.*

The Income Security Recommendation, 1944 (No.67)<sup>17</sup>, together with the Medical Care Recommendation, 1944 (No.69)<sup>18</sup>, laid down for the first time in history the guiding principles for the eight classical social security contingencies, as well as medical care and benefits to be provided to all residents through social insurance and complemented by social assistance. (The Governing Body decided to maintain the status quo of Recommendation No.69, due to the strong link with Recommendation No.67). These two instruments, which were adopted in 1944 in Philadelphia at the 26th Session of the International Labour Conference, paved the way for the adoption of Convention No.102. On top of these, ILO adopted OSH (Occupational Safety and Health) related mandates such as Convention No.187 and Recommendation No.197 on “Promotional Framework for Occupational Safety and Health” to lower the toll of work-related injuries and diseases.

The ILO promotes a rights-based approach to social security with ILO standards as its principal means of action for assisting member states towards the realization of this right. The ILO also adopts further initiatives to support international efforts aimed towards the realization of social security for all. In 2003, it launched the “*Global Campaign on Social Security and Coverage for All*” reflecting a global consensus on the part of governments and employers’ and workers’ organizations to broaden social security coverage among working people, particularly in the informal economy, and raising awareness about the role of social security in economic and social development. The campaign also seeks to develop a broad partnership involving international organizations, donor countries, social security institutions and civil society organizations.

In 2008, the “*Declaration on Social Justice for a Fair Globalization*”<sup>19</sup> established a new foundation on which the ILO can effectively support the efforts of Member States to promote and achieve progress and social justice through the four strategic objectives of the ILO’s *Decent Work Agenda: the promotion of fundamental rights, employment creation, social protection and social dialogue*.

The 2009 global financial and economic crisis stressed the role of social security schemes as automatic social and economic stabilizers. Countries at all levels of development, which have social security systems in place, are in a much better position to cope with the social fall-out of the crisis. In response to this crisis, the UN Chief Executives Board for Coordination (CEB) adopted the **Social Protection Floor Initiative** (SPF-I) as one of the nine joint crisis initiatives.

In 2009, in response to the Global financial crises, the ILO designed a framework to guide national and international policies aimed at *stimulating economic recovery*, generating jobs and extending social protection for all. *The Global*

<sup>14</sup> India is one of the founder members of the International Labour Organization. Available at <<http://www.ilo.org/public/english/support/lib/century/content/1944.htm>> accessed on 24 April 2013.

<sup>15</sup> Social Security (Minimum Standards) Convention, 1952 is an International Labour Organization Convention on Social Security and protection at the contingencies that include any morbid condition, whatever its cause and pregnancy. It was established in 1952, with the preamble stating: Having decided upon the adoption of certain proposals with regard to minimum standards of Social Security. Available at <<http://www.ssa.gov/policy/docs/ssb/v15n10/v15n10p3.pdf>> accessed on 24 April 2012.

<sup>16</sup> Medical care; Sickness benefit; Unemployment benefit; Old-age benefit; Employment injury benefit; Family benefit; Maternity benefit; Invalidity benefit; and Survivors’ benefit. Available at <<http://www.ilo.org/public/english/support/lib/century/content/1944.htm>> accessed on 24 April 2012.

<sup>17</sup> Recommendation concerning Income Security which was Adopted in Philadelphia, 26th International Labour Conference Session (12 May 1944), to provide by social insurance may be closely adapted to the variety of needs, the contingencies covered as follows: (a) Sickness; (b) Maternity; (c) Invalidity; (d) Old age; (e) Death of breadwinner; (f) Unemployment; (g) Emergency expenses; and (h) Employment injuries. Available at <[http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100\\_INSTRUMENT\\_ID:312405:NO](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312405:NO)> accessed on 15 May 2012.

<sup>18</sup> Recommendation concerning Medical Care which was adopted in Philadelphia, 26th International Labour Conference session (12 May 1944), to provide Medical Care Services. Available at <[http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100\\_INSTRUMENT\\_ID:312405:NO](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312405:NO)> accessed on 15 May 2012.

<sup>19</sup> ILO Declaration on Social Justice for a Fair Globalization Adopted in 2008 by the representatives of governments, employers and workers from all ILO member States, the Declaration expresses the contemporary vision of the ILO’s mandate in the era of globalization. Available at <[http://www.ilo.org/global/about-the-ilo/WCMS\\_099766/lang--en/index.htm](http://www.ilo.org/global/about-the-ilo/WCMS_099766/lang--en/index.htm)> accessed on 15 May 2012

*Jobs Pact*<sup>20</sup> specifically calls on countries to give consideration to build “adequate social protection for all, drawing on a basic social protection floor including: access to health care, income security for the elderly and persons with disabilities, child benefits and income security combined with public employment guarantee schemes for the unemployed and working poor.”

The *Social Protection Floor Initiative* (SPF-I), launched in 2009, is also grounded in a rights-based framework. Its concept is based on shared principles of social justice and reflects the call of the *Declaration of Human rights* for adequate life standards, access to health, education, food, housing and social security. Moreover, the SPF-I enables the concrete realization of *human rights*. The results of ILO research shows that a social protection floor can be afforded by virtually all countries and that it would constitute an effective tool in the fight against poverty and in reaching the Millennium Development Goals.

Widespread political support for the idea of non-contributory minimum social protection crystallized in 2009, when the heads of the United Nations (UN) agencies launched the *Social Protection Floor Initiative* as one of the nine UN joint initiatives to cope with the global economic and financial crises. The Social Protection Floor Initiative builds on the ILO’s concept of a ‘social minimum,’ which comprises social pensions, child benefits, access to health care, and unemployment provision.

In 2011, the recurrent discussion on the strategic objective of social protection (social security) at the 100<sup>th</sup> International Labour Conference came out with strong conclusions regarding the extension of social security to all through national defined social protection floors.

In June 2012, the International Labour Conference adopted the *Social Protection Floors Recommendation, 2012 (No. 202)*<sup>21</sup>. This Recommendation provides guidance to Member States, so as to ensure that all members of society enjoy at least a basic level of social security throughout their lives.

Employment and social protection are indispensable avenues to socio-economic development, poverty reduction and human dignity. Better and more productive jobs raise incomes and help finance social protection, which not only contributes to stable and better household incomes but also improves the productivity and employability of the population. As it has been found that actions in these two areas are mutually reinforcing, the linkages between social protection and employment have been placed in the centre stage in current development policy debates in G20 Labour Ministerial Joint Statement by OECD<sup>22</sup> Secretary-General and ILO Director-General.<sup>23</sup>

Article 71 of Convention No. 102 states that “the costs of the benefits and administration shall be borne collectively by way of insurance contributions or taxation or both”. Therefore, direct employer liability for the cost of benefits would not be in conformity with ILO Conventions.

According to ILO Convention No. 102 (Article 32)<sup>24</sup>, the contingencies covered include the following accident-at-work or employment-related diseases: (a) sickness (“morbid condition”), (b) temporary incapacity for work resulting

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<sup>20</sup> The Global Jobs Pact is a set of balanced and realistic policy measures that countries, with the support of regional and multilateral institutions, can adopt to ease the impact of the crisis and accelerate recovery in employment. Adopted in June 2009 by the International Labour Organization, it calls on its member States to put decent work opportunities at the core of their crisis responses. It addresses the social impact of the global crisis on employment and proposes *job-centered policies* for countries to adapt according to their national needs. Guided by the Decent Work Agenda and commitments made by the ILO constituents in the 2008 Declaration on Social Justice for a Fair Globalization. It proposes a portfolio of policies aimed at: *Generating employment, Extending social protection, respecting labour standards, Promoting social dialogue, shaping fair globalization*. Available at <<http://www.ilo.org/jobspact/about/lang--en/index.htm>> accessed on 12 Jan 2013.

<sup>21</sup> (a) Access to a nationally defined set of goods and services, constituting essential health care, including maternity care, that meets the criteria of availability, accessibility, acceptability and quality; (b) basic income security for children, at least at a nationally defined minimum level, providing access to nutrition, education, care and any other necessary goods and services; (c) basic income security, at least at a nationally defined minimum level, for persons in active age who are unable to earn sufficient income, in particular in cases of sickness, unemployment, maternity and disability; and (d) basic income security, at least at a nationally defined minimum level, for older persons. Available at <[http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100\\_INSTRUMENT\\_ID:3065524](http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_INSTRUMENT_ID:3065524)> accessed on 12 Jan 2013.

<sup>22</sup> Organisation for Economic Co-operation and Development

<sup>23</sup> On 17/07/2013 - Joint statement by ILO Director-General Guy Ryder and OECD Secretary-General Angel Gurría on the occasion of the G20 Labour and Employment Ministers’ Meeting, Moscow, 18-19 July 2013. “We, the Heads of the International Labour Organisation and the Organisation for Economic Cooperation and Development, call upon the Ministers of Labour and Employment of the G20 countries to reinforce their cooperation with a view to enhancing the design and scale of their employment, labour market and social protection policies in order to achieve higher levels of productive and rewarding employment and to contribute to a strengthening of the world economy”. Available at <<http://www.oecd.org/g20/topics/employment-and-social-policy/oecd-ilo-call-on-g20-labour-ministers-to-reinforce-cooperation.htm>> accessed on 15 October 2013.

<sup>24</sup> Article 32- The contingencies covered shall include the following where due to accident or a prescribed disease resulting from employment: (a) a morbid condition; (b) incapacity for work resulting from such a condition and involving suspension of earnings, as defined by national laws or regulations; (c) total loss of earning capacity or partial loss thereof in excess of a prescribed degree, likely to be permanent, or corresponding loss of faculty; and (d) the loss of support suffered by the widow or child as the result of the death of the breadwinner; in the case of a widow, the right to benefit may be made conditional on her being presumed, in accordance with national laws or regulations, to be incapable of self-support. Available at <[http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:55:0::55:P55\\_TYPE,P55\\_LANG,P55\\_DOCUMENT,P55\\_NODE:CON,en,C102,/Document#A32](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:55:0::55:P55_TYPE,P55_LANG,P55_DOCUMENT,P55_NODE:CON,en,C102,/Document#A32)> accessed on 20 December 2012.

from such a condition, (c) total or partial loss of earning capacity, likely to be permanent and (d) the loss of support suffered by dependents as the result of the death of the breadwinner. In addition, the range of benefits required by Convention No. 102 includes necessary medical care, sickness benefit for the period of incapacity for work, disability pension in case of loss of earning capacity, and survivors' pension in case of death of a breadwinner. The Employment Injury Benefit Convention (Convention No.121, Article 26)<sup>25</sup> requires member countries to provide rehabilitation services which are designed to prepare a disabled person for the resumption of his/her previous activity, or, if this is not possible, the most suitable alternative works, having regard to his/her aptitudes and capacity; and to take measures to further the placement of disabled persons in suitable employment.

Of the total number of international labour standards approved by the International Labour Conference (ILC), nearly half deal with occupational safety and health, more than any other subject. Among them, Convention No. 187(The Promotional Framework for Occupational Safety and Health Convention, 2006) promotes the development of a national policy, system and programme of occupational safety and health, in consultation with employers' and workers' organizations<sup>26</sup>.

### **The Social Security (Minimum Standards) Convention, 1952 (No.102).<sup>27</sup>**

It is the flagship of all ILO<sup>28</sup> social security Conventions, as it is the only international instrument, based on basic social security principles, that establishes worldwide-agreed minimum standards for all nine branches of social security. These branches are: medical care; sickness benefit; unemployment benefit; old-age benefit; employment injury benefit; family benefit; maternity benefit; invalidity benefit; and Survivors' benefit.

While Convention No. 102 covers all branches, it requires that only three of these branches be ratified by Member states, which allows for the step-by-step extension of social security coverage by ratifying countries.

The minimum objectives of the Convention relate, for all the nine branches, to the percentage of the population protected by social security schemes, the level of the minimum benefit to be secured to protected persons, as well as to the conditions for entitlement and period of entitlement to benefits.

The Convention requires, as a rule, equality of treatment for nationals and non-nationals residents; it sets out the circumstances in which benefit may be suspended and requires that claimants and beneficiaries should have a right of appeal against the refusal of benefit. Other general provisions define the responsibility of the State and limit the extent to which employees (in an insurance-based scheme) or persons of small means should be obliged to finance their benefits by direct contributions or special taxation. Ratifying State is not obliged to accept all parts of it and can confine ratification to merely three of the nine branches, **including at least one of the following: unemployment, employment injury, old-age, invalidity or survivors' benefit.**<sup>29</sup>

**The principles anchored in Convention No. 102 are:**

1. Guarantee of defined benefits;
2. Participation of employers and workers in the administration of the schemes;
3. General responsibility of the state for the due provision of the benefits and the proper administration of the institutions;
4. Collective financing of the benefits by way of insurance contributions or taxation.

Convention No. 102 does not prescribe how to reach these objectives but leaves certain flexibility to the member state. They can be reached through:

1. Social insurance schemes with earnings related or flat rate components or both
2. Social assistance schemes.

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<sup>25</sup> 1. Each Member shall, under prescribed conditions- (a) take measures to prevent industrial accidents and occupational diseases; (b) provide rehabilitation services which are designed to prepare a disabled person wherever possible for the resumption of his previous activity, or, if this is not possible, the most suitable alternative gainful activity, having regard to his aptitudes and capacity; and (c) take measures to further the placement of disabled persons in suitable employment. 2. Each Member shall as far as possible furnish in its reports upon the application of this Convention submitted under Article 22 of the Constitution of the International Labour Organisation information concerning the frequency and severity of industrial accidents. Available at <[http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:55:0:::55:P55\\_TYPE,P55\\_LANG,P55\\_DOCUMENT,P55\\_NODE:CON,en,C102,/Document#A32](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:55:0:::55:P55_TYPE,P55_LANG,P55_DOCUMENT,P55_NODE:CON,en,C102,/Document#A32)> accessed on 20 Dec 2012.

<sup>26</sup> Article 4 (f): The national system shall include, a mechanism for the collection and analysis of data on occupational injuries and diseases, taking into account relevant ILO instruments; and (g) provisions for collaboration with relevant insurance or social security schemes covering occupational injuries and diseases.

<sup>27</sup> Till the date Forty Nine countries have ratified, **India has not yet ratified.** Available at <<http://www.ilo.org/global/lang--en/index.htm#a1>> accessed on 2 May 2013.

<sup>28</sup> The unique tripartite structure of the ILO gives an equal voice to workers, employers and governments to ensure that the views of the social partners are closely reflected in labour standards and in shaping policies and programmes.

<sup>29</sup> Available at <<http://www.ilo.org/global/lang--en/index.htm#a1>> accessed on 2 May 2013.

Convention No. 102 also requires regular actuarial valuations to be carried out, which ensures the sustainability of the scheme. Furthermore, Convention No. 102 lays down that social security schemes be administered on a tripartite basis, which guarantees and strengthens social dialogue between Governments, employers and workers. Thus, Convention No. 102 is considered as a tool for the extension of social security coverage and provides ratifying countries with an incentive for doing so by offering flexibility in its application, depending on their socio-economic level.<sup>30</sup>

Employment Injury benefit is stipulated in Part VI of the convention No. 102. The contingencies includes a morbid condition, incapacity for work, invalidity or a loss of faculty due to an industrial accident or occupational disease as well as the loss of support as a result of the death of the breadwinner following an employment injury. Based on this convention, the persons protected shall comprise of not less than 50 percent of all employees, or, for countries who declared that their economy and medical facilities are insufficiently developed, at least 50 percent of all employees in industrial workplaces employing 20 persons or more.<sup>31</sup>

In respect of a morbid condition, the benefit shall cover medical care, the types of which are specified in the convention. The institutions or Government departments administering the medical care required to cooperate, wherever appropriate, with the general vocational rehabilitation services, with a view to the re-establishment of handicapped persons in suitable work. In light of this, national laws or regulations may authorize such institutions or departments to ensure provision for the vocational rehabilitation of handicapped persons.

In cases of incapacity for work or total permanent invalidity, the benefits shall be in the form of periodical payment corresponding to at least 50 percent of the reference wage and in case of partial permanent invalidity the benefit shall be a periodical payment representing a suitable proportion of that specified for total invalidity. Survivors' benefit in case of death of the breadwinner, the benefit is in periodical payment corresponding to at least 40 percent of the reference wage. There can be exceptions where such periodical payments are converted to a lump sum where: (a) the degree of incapacity is slight; or (b) the competent authority is satisfied that the lump sum will be properly utilized.

#### **Industrial Accident**

The following definition can be found in recommendation No. 121<sup>32</sup>:

- (a) accidents, regardless of their cause, sustained during working hours at or near the place of work or at any place where the worker would not have been except for his employment;
- (b) accidents sustained within reasonable periods before and after working hours in connection with transporting, cleaning, preparing, securing, conserving, storing and packing work tools or clothes;
- (c) accidents sustained while on the direct way between the place and-
  - (i) the employee's principal or secondary residence; or
  - (ii) the place where the employee usually takes his meals; or
  - (iii) the place where he usually receives his remuneration.

#### **Occupational Diseases**

Convention No. 121<sup>33</sup> offers the choice between three ways to define Occupational Diseases:

- (a) by prescribing a list of diseases comprising at least those enumerated in Schedule I to the Convention (*provided at the ending pages of this chapter*);
- (b) by stipulating a general definition broad enough to cover at least the diseases enumerated in Schedule I to the Convention ;

Unless proof to the contrary is brought, it is recommended that there is a presumption of the occupation origin of diseases known to arise out of the exposure to substances or dangerous conditions in processes, trades or occupations where the employee:

- (a) was exposed for at least a specified period; and
- (b) has developed symptoms of the disease within a specified period following termination of the last employment involving exposure.

#### **Strategies for Providing Social Security<sup>34</sup>**

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<sup>30</sup> *ibid*

<sup>31</sup> *ibid*

<sup>32</sup> The General Conference of the International Labour Organisation, having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Forty-eighth Session on 17 June 1964, decided upon the adoption of certain proposals with regard to benefits in the case of industrial accidents and occupational diseases. Available at <[http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:55:0:::55:P55\\_TYPE,P55\\_LANG,P55\\_DOCUMENT,P55\\_NODE:REC,en,R121,/Document](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:55:0:::55:P55_TYPE,P55_LANG,P55_DOCUMENT,P55_NODE:REC,en,R121,/Document)> accessed on 15 March 2014

<sup>33</sup> *ibid*

The following different authorities have advocated different strategies for providing social security or social protection:

**World Bank**

According to the World Bank, Social Risk Management Arrangements fall into three main categories: (a) informal arrangements, (b) market-based arrangements, and (c) public arrangements on a large scale. Each has relative strengths and limitations.

The Bank says “Risk management can take place at different moments —both before and after the risk occurs. The goal is to prevent the risk from occurring or, if this cannot be done, to mitigate its effects. They are called preventive and mitigating strategies. If they do not succeed, there are strategies to cope with the risks at face value; the best social risk management is to make sure that down-side risks never occur. The next most effective action is risk mitigation, as this reduces the negative effects of risks before they actually happen. Risk coping is essentially the residual strategy, if everything else has failed. However, since each of these strategies has both direct and opportunity costs, relying entirely on risk reduction or mitigation may not be either efficient or feasible. The experience of the formerly centrally planned economies has demonstrated that trying to eliminate all risks in advance through quantity planning, official price setting, and public ownership of productive means has serious costs in terms of lower economic growth.

At the other extreme, many of the current government interventions in developing countries particularly for poor people, concentrate on risk coping. *However, a system that concentrates on helping poor people deal with a shock once it has occurred runs the risk of keeping them in a poverty trap and perpetuating the vicious cycle of low returns, low risk taking, and deep poverty.* Moving towards a balance among coping, reduction, and mitigation strategies has the potential to trigger a virtuous cycle in which people can undertake activities with higher variability in returns, but also with higher absolute returns.

**International Labour Organisation (ILO)**

ILO advocates mainly social insurance and social assistance

**(i) Social Insurance**

Initially, for a long time, protection against poverty and deprivation was provided in the form of assistance - public or private. Those who had the resources took to savings and private insurance. After the industrial revolution, a new class of workers emerged who lived on their wages but did not earn enough to save for emergencies. In this context social insurance was born.

Social insurance was first introduced in Germany about a hundred years ago. Credit for innovating the scheme is given to Bismark. It has since spread all over the world.

Social insurance is contributory in character. The scheme is financed by contributions usually made by employers and workers, in some cases, by the state as well. Employment injury schemes are usually financed entirely by contributions from the employers. Participation in the scheme is compulsory subject to grant of exemptions in exceptional cases. The contributions and the income earned by their investment are placed in a fund from which prescribed benefits are paid. The right to the benefits is acquired by virtue of the contributions one makes. Contributions and benefits are mostly related to the earnings of the insured person. In countries where the schemes have been extended to cover the whole population, the entire citizenry makes contributions.

Under a social insurance scheme the right of the beneficiary to any benefit is acquired by making a contribution. It is in one sense a *contractual right*, not a *social right*. It follows that if social security has to be provided to all citizens as a basic human right social insurance cannot be the appropriate vehicle for it. It calls for a different approach.

**(ii) Social Assistance**

The social assistance schemes are generally tax based. Under this approach the social security benefits are paid out of the general revenues of the State. The State may however levy special taxes to augment the revenues to meet the liabilities arising under the schemes, this approach originated in Scandinavia and the first groups to be covered were the elderly, the sick, invalids, survivors and unemployed in that order. The system was intended to replace the harsh and humiliating conditions under which poor relief was being given. In some countries social assistance has been replaced by contributory social insurance but in some other countries such as Australia and New Zealand all the social assistance schemes have been merged into a national social security system.

Even in those countries which rely mainly on social insurance, some groups of people who are not able to make contributions to the social insurance schemes are covered by social assistance.

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<sup>34</sup>Report of Second National Labour commission (2002) Available at <<http://indialabourarchives.org/usr/local/gsd/cgi-bin/library?e=d-000-00--0ncl-ncl-01-0-0prompt-14-Document---0-11-1-en-50---20-preferences---001-001-1-0isoZz-8859Zz-1-1&a=d&cl=CL2.16&d=HASH445101261de83f8e1210bb.403>> accessed on 15 November 2013



***The basic features of social assistance schemes are:***

1. The entire cost is met from State funds
2. Benefits are paid as a legal right and
3. The quantum of the benefits is calculated with the object of raising the applicant's total income to a minimum level.

In assessing the need for and the quantum of social assistance to be given to an individual a means or an income test is usually applied so that those who are above the prescribed income limit are excluded from the benefit/s. Some countries however provide social assistance for certain specified purpose without any income test so that all qualified residents would be entitled to the benefits. For example in some countries every resident is entitled to a basic minimum pension on attaining the prescribed age without regard to his resources and without any contribution. Some countries operate a national health service providing medical care to all residents without any contribution or means test meeting the cost wholly or mainly from the public funds subject however to cost sharing for certain purposes.

***Other Strategies***

The following other strategies are currently in vogue in different countries

**(i) Employer's liability**

Under employer's liability schemes the employers are directly responsible for providing social security benefits to their employees. These schemes originated towards the end of the 19th century for payment of 'workmen's compensation' and providing medical care for occupational injuries. The employers could meet their liabilities under the schemes out of their own resources as and when the contingencies arose or insure their liabilities under a private insurance scheme.

In India the benefits payable under the Workmen's Compensation Act, the Maternity Benefit Act, the Payment of Gratuity Act and the Industrial Disputes Act are the exclusive liabilities of the employers.

The employers' liability schemes have strengthened the position of workers vis-a-vis their employers in certain respects. However, as social security measures they suffer from several shortcomings. *Of these, the most important shortcoming is the tendency on the part of the employers to avoid the liability by resort to litigation. The current trend is, therefore, to replace employers liability schemes by social insurance.*

**(ii) National provident funds**

National provident funds have been established in a number of English speaking developing countries. These are essentially savings schemes. Workers and their employers pay regular contributions into a central fund and those contributions are credited to the individual account of the member to which interest is added periodically. When a specified contingency occurs such as old age, invalidity or death, the total amount standing to the credit of the account is paid out to the worker or his survivor. Some funds permit earlier partial withdrawals.

While provident funds are playing a valuable part in promoting self-help they are not social security schemes in the conventional sense geared to provide periodical payments when wages are interrupted. A provident fund benefit is in part a terminal pay with little relevance to age or the circumstances in which the employment ends and there is no pooling of risks. Further in an inflationary situation, contributions lose much of their value. Despite these shortcomings provident funds remain as the only sources of old age protection in approximately 20 developing countries throughout the world. Some also pay additional benefits including sickness and maternity benefits. Members of provident funds clearly prefer lump sum payments which they can utilize to meet their capital needs.

**(iii) Mutual Benefit Societies**

A mutual benefit society is an association of persons who join together to help each other in case of need and protect themselves against certain social risks such as sickness, accidents etc. The members of the society pay contributions periodically and meet the expenditure in providing the variety of benefits to the members from the fund built up out of such contributions. A mutual benefit society acquires legal status through registration as a society or as a cooperative under the normal laws governing the registration of such organizations or as a body registered under a specific legislation governing the formation of mutual benefit societies. In addition, cooperative societies set up with common economic objectives or associations of residents or employees of certain undertakings or persons belonging to particular avocations may also undertake provision of social security protection to their members without a fresh registration if their bye laws permit it.

Mutual benefit societies are common in some of the industrial as well as developing countries. The most common benefit granted by a mutual benefit society is assistance in case of sickness. This assistance can take the form of payment of money in a lump sum to the sick person, reimbursement of doctor's bills and hospital and pharmaceutical expenses.

Another traditional benefit is maternity assistance either in the form of a fixed grant or in the form of reimbursement of expenses. Another common benefit is assistance in case of death of the breadwinner. Apart from these benefits the mutual benefit societies also provide a wide range of services depending on their resources.

In Japan there is number of Mutual Aid Associations such as the national Government Employees' Mutual Aid Association providing wide ranging benefits and services. In India however mutual benefit societies have not made much progress.

#### **(iv) Micro Insurance**

Micro Insurance provides a complementary strategy to improve access to social security to the excluded people. It is based on the premise that groups of the population that are not covered, or are not adequately covered, by existing systems can define their own set of priority needs, that these needs can be insured and that the members of the groups are willing to pay for this insurance. The group may be based on area of residence, on occupation, on ethnic affiliation or on gender. Micro insurance is not merely another form of insurance or healthy case financing. It is a form of social organization, based on the concepts of solidarity and risk pooling, which involves the active participation of the group's members. Typically, these groups are already organised, for example, to provide micro credit facilities to their members; micro insurance is often therefore an extension of their activities. The organisation may use some of the surplus from their core activities to subsidize the insurance schemes. They may also obtain subsidies from the public authorities, form international aid agencies (in particular seed capital) and in certain cases from state owned insurance companies.

The countries in which they operate include Bangladesh, Benin, Burkina Faso, Cameroon, Cote d' Ivore Ghana, Guinea, India, Lebanon Mali, Morocco, Nigeria, Philippines, Senegal, the United Republic of Tanzania, Togo, Tunisia, Uganda, and several countries in Latin America. Although they are grass root initiatives, they have in some countries joined together in a federative structure, for example, in Argentina, Mali, Senegal and Uruguay. Micro insurance schemes can function as a self help activity since they require relatively little start up capital or infrastructure and can be launched with a relatively small nucleus of members.

#### **(v) Self-Financed Social Insurance**

Self Financed Social insurance schemes represent yet another way in which the social security needs of individuals are met through a community or group effort. The mechanism used is one of providing mutual support through pooling of resources on the principles of insurance help being extended to those in need within the overall frame work of certain basic regulator, conditions. This, in a sense, is the most basic of all social security systems, having its genesis in requirements that are common to all members of a society and their own immediate collective response in fulfilling them.

In this system, it is the group itself that decides about the size and the source of contributions that group's members are meant to make. The collection and management of contributions well as the disbursement of benefits are again matter for the group to consider and arrange.

There is a wide variety of self financed social insurance schemes, ranging from the totally informal and unwritten systems within a small group to the more formal ones catering to the needs of larger numbers and based on many complex arrangements.

In addition, the initiative may originate from within the group or be motivated by nongovernmental and voluntary agencies. In India there is a wide variety of ventures promoted and successfully experimented with, in the areas of credit health care, education, employment and overall development. For the poor and lower income groups, the need for money exists universally and continuously almost by definition.

Hence, it is not surprising that most self help groups operate around credit requirements. These in turn are integrally related to contingencies such as death disability and disease old age, unemployment and destitution, the very area with which social security schemes are concerned.

**Conclusion:** The onslaught of globalization and privatization has pushed to the background the concern for Social Security (welfare system) and the role of the State in promoting Social Security. The apologists for the private sector and the market economy have been ridiculing welfarism as outmoded and are advocating the dismantling of the welfare system, indeed there is an ongoing debate all over the world about the crisis of the welfare state which is said to be in liquidation or in retreat.