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PART I - SOCIAL INSURANCE IN INDIA: LEGISLATIVE FRAMEWORK, POLICY DYNAMICS, AND JUDICIAL PERSPECTIVES

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Abstract

Social insurance in India functions as a vital element of the country's welfare system because it unites constitutional requirements with legal rights and social policy goals. The social-insurance system of India developed from colonial labor welfare experiments and constitutional requirements in Articles 41, 42 and 43 to become a complex system that includes both contributory and non-contributory schemes. The research examines the historical development of social insurance in India by studying its legal framework and national policies which extend social protection and assessing its economic and social effects. The study reveals ongoing problems with informal sector exclusion and administrative division and budgetary stability yet proposes unified reforms which align with global best practices. The judicial system has undergone a transformative process through judicial interpretation which establishes equilibrium between welfare duties and legal boundaries.

Keywords: Social Security, Insurance, Labour Welfare, Code on Social Security 2020, ESIC, EPFO, Indian Constitution, Welfare Jurisprudence.

1. Introduction

Social insurance exists as a part of the broader social security system which protects people from financial problems that occur because of illness and job loss and disability and aging and death.¹ In India, the philosophy of social insurance draws inspiration from the Directive Principles of State Policy (DPSPs), particularly Articles 41 to 43, which obligate the State to ensure public assistance and humane working conditions.² The philosophy of social insurance in India stems from the Directive Principles of State Policy (DPSPs) which include Articles 41 through 43 that require the State to provide public assistance and maintain decent working conditions. Social insurance stands apart from social assistance because it operates as a contributory system where workers and employers and sometimes the government pool resources into a shared fund that activates benefits during predefined events. The organizational

setup shows how all employees share responsibility for their individual duties.³ Through multiple decades India established a social-security system which combines statutory insurance programs with government-backed initiatives and informal assistance programs. The **Code on Social Security 2020** brings together various laws which previously operated as a separate and uncoordinated legal system.

2. Historical Origin and Development

Social insurance first appeared in India during the early 1900s when colonial rule brought industrial growth and urban workforce expansion which created fresh social problems. The **Workmen's Compensation Act 1923** was the first legislative attempt to provide compensation for employment-related injuries.⁴ This Act, while limited in scope, reflected an emerging recognition of the State's duty to protect workers.

The **International Labour Organization (ILO)** established in 1919 brought global progress to the forefront which led to the development of labor-welfare agreements. India, as a founding member, gradually incorporated ILO standards into domestic policy. The new independence period brought about a complete transformation because social insurance established itself as a constitutional requirement which became part of welfare-state principles.

The **Employees' State Insurance Act 1948 (ESI Act)** and the **Employees' Provident Funds and Miscellaneous Provisions Act 1952 (EPF Act)** together constituted the twin pillars of statutory social insurance.⁵ These Acts operationalized the constitutional promise of socio-economic justice and provided a model replicated in subsequent welfare schemes.

Five-Year Plans reinforced this approach, particularly the Second Plan (1956–61), which emphasized the need for a **“comprehensive social-insurance system”** to secure workers against contingencies.⁶ The framework evolved into a broader system which now protects maternity benefits and gratuity and unemployment because of international standards and domestic economic growth.

3. Need for Social Insurance in India

Social insurance stands as an essential requirement for India because of its particular population distribution and economic structure. The informal sector dominates India's workforce with

more than 80 percent of workers who lack social security benefits.⁷ Workers need protection systems because they encounter financial instability and face increased risks from health problems and employment termination.

Social insurance serves different purposes which include:

- **Economic stability:** by sustaining consumption during periods of non-employment;
- **Social equity:** by redistributing risk and promoting inclusive growth; and
- **Human-capital preservation:** by ensuring health and livelihood security.

From a constitutional perspective, social insurance is a manifestation of the **right to life and dignity under Article 21**. The Supreme Court in *Olga Tellis v. Bombay Municipal Corporation* (1985 AIR 180) held that the right to livelihood forms an integral part of the right to life. In the case of *Consumer Education & Research Centre v. Union of India* (1995 3 SCC 42), the Court established that occupational health benefits together with social-security benefits fall under Article 21 protections.⁸

Social insurance stands elevated by judicial decisions which now require States to build welfare systems through their constitutional duty.

4. Statutory Provisions Governing Social Insurance

4.1. Employees' State Insurance Act 1948

The **ESI Act** provides for health insurance and medical benefits to workers in factories and certain establishments. The **Employees' State Insurance Corporation (ESIC)** functions as a statutory organization which operates under the Ministry of Labour. The program offers medical care services together with benefits for sickness and maternity and dependent family members. The Act implements an employer-employee contribution system which follows insurance principles.⁹

The ESI Act functions as a beneficial law according to courts which enforce it. In *Regional Director, ESIC v. Ramanuja Match Industries* (1985 1 SCC 218), the Supreme Court held that "a welfare statute should be construed liberally to promote its purpose."¹⁰

4.2. Employees' Provident Funds and Miscellaneous Provisions Act 1952

The **EPF Act** establishes a contributory provident-fund system ensuring post-retirement

savings and old-age security. The scheme exists in three different parts which include: (a) Employees' Provident Fund Scheme 1952, (b) Employees' Pension Scheme 1995, and (c) Employees' Deposit-Linked Insurance Scheme 1976.

The Court confirmed in *Regional Provident Fund Commissioner v. Shibu Metal Works (1965 2 LLJ 473 SC)* that the Act requires interpretation which protects workers' welfare.¹¹

4.3. Maternity Benefit Act 1961

The Act establishes paid maternity leave and other benefits for women who work as employees. The 2017 amendment extended maternity leave to 26 weeks and introduced crèche facilities for establishments employing 50 or more workers. The law operationalizes Article 42 of the Constitution, which directs the State to ensure just and humane conditions of work.¹²

4.4. Payment of Gratuity Act 1972

The legislation provides employees with a single payment which serves as recognition for their extended period of continuous work. The benefit is payable upon retirement, resignation, or death. The system operates as a deferred wage system which supports employees to stay in their positions for extended periods.¹³

4.5. Unorganized Workers' Social Security Act 2008

The Act establishes a system to protect unorganized workers through social security programs which include life and disability insurance and health coverage and retirement benefits because of the large informal economy.¹⁴ The program faces ongoing implementation issues because authorities struggle to find beneficiaries and allocate necessary funds.

4.6. Code on Social Security 2020

The **Code on Social Security 2020** achieves unification of nine central labor laws through a single legislative structure. The legislation introduces new protections for gig and platform workers which demonstrates understanding of modern work arrangements.¹⁵ The Code will achieve three main goals through its full implementation which includes contribution management and portability expansion and administrative optimization.

Part II — Policy Dynamics, Impact, Challenges and Judicial Perspectives

5. National Policies and Programmes on Social Insurance

Social insurance legislation in India has received continuous support from national policies and major welfare programs which transform legal requirements into actual implementation. The **National Policy on Social Security (2007)** first articulated a coordinated strategy for extending coverage to unorganized-sector workers. The plan suggested that funding should come from three sources which include Central government funds together with State government contributions and payments from beneficiaries who would also receive portable identity cards.¹⁶

5.1. Pradhan Mantri Jan Dhan Yojana (PMJDY)

Launched in 2014, PMJDY established basic savings-bank accounts for millions of previously unbanked citizens. These accounts serve as conduits for direct-benefit transfers and insurance enrolment, particularly for schemes such as the **Pradhan Mantri Suraksha Bima Yojana (PMSBY)** and **Pradhan Mantri Jeevan Jyoti Bima Yojana (PMJJBY)**. The integration of financial inclusion with insurance coverage has been a landmark in democratizing social protection.¹⁷

5.2. Ayushman Bharat – Pradhan Mantri Jan Arogya Yojana (AB-PMJAY)

The government introduced this health insurance program in 2018 to create the world's largest public health insurance scheme which offers ₹5 lakh annual coverage to 50 crore beneficiaries. The program brings Article 47 into action by enhancing public health standards while ESI scheme continues to provide support for unorganized-sector families.¹⁸

5.3. Atal Pension Yojana (APY)

To ensure old-age income security for workers outside formal employment, APY (2015) provides a guaranteed pension between ₹1,000–₹5,000 per month. The system transforms from employer-based insurance to citizen-based insurance which aligns with the **Code on Social Security 2020**.¹⁹

5.4. Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA)

The main purpose of MGNREGA serves as an employment guarantee program but it also acts

as a social insurance system which offers financial help to rural people during times of crisis.²⁰

The various programs show how India builds its **universal social protection system** through the combination of mandatory insurance programs and welfare policy mechanisms.

6. Socio-Economic Impact of Social-Insurance Mechanisms

Research evidence shows that social-insurance programs help reduce poverty while making healthcare services more accessible and increasing savings for people who have low incomes.²¹ The **Employees' Provident Fund Organisation (EPFO)** today manages assets exceeding ₹20 trillion, offering financial stability to over 27 million active members. The **Employees' State Insurance Corporation (ESIC)** maintains a network of 1,500 dispensaries across the country which proves the value of social-security funding.²² The Employees' State Insurance Corporation (ESIC) maintains a network of 1,500 dispensaries across the country which proves the value of social-security funding.²²

The benefits distribute themselves in a **non-uniform manner** to different groups of people. The Indian workforce has only 25% of its population covered by statutory social-insurance benefits which means that informal workers together with agricultural and gig-economy employees do not receive coverage.²³ The *e-Shram Portal (2021)* represents a digitalization effort which aims to bridge this gap through unified registration and portability.

7. Challenges and Limitations

The development of a complete social insurance system faces ongoing blockades because of different systemic issues that stop its complete implementation.

- **Fragmented Administration:** The three agencies ESIC and EPFO and State Welfare Boards function with shared authority which leads to repeated work and operational waste.²⁴
- **Informal-Sector Exclusion:** The majority of workers at 80 percent do not participate in contributory schemes because their work arrangements and income patterns are unstable.²⁵
- **Financial Sustainability:** The financial sustainability of insurance funds faces threats because of insufficient contributions combined with increasing healthcare expenses.²⁶

- **Awareness and Accessibility:** The combination of low literacy levels and complex enrollment procedures creates obstacles which prevent women and migrant workers from joining the program.²⁷
- **Regulatory Delays:** The **Code on Social Security 2020** awaits full implementation pending rules notification in several States.²⁸

The evaluation of labor market dynamics demands that government institutions use **data-based monitoring systems** which must link with both each other through **flexible regulatory frameworks**.

8. Suggestions and Reforms

The following reforms aim to establish a sustainable inclusive system.

- **Universalization through a National Social-Insurance Registry:** The integration of e-Shram and Aadhaar databases with EPFO/ESIC systems will enable workers to move between different states and job sectors.²⁹
- **Flexible Contribution Mechanisms:** The government should create micro-premium systems which provide financial support to self-employed and gig workers through matching grants.³⁰
- **Public-Private Partnerships (PPPs):** The insurance industry should use its expertise to develop better systems for handling claims and managing risks.³¹
- **Strengthened Judicial Oversight:** Establishing specialized social-security tribunals with fast-track appellate mechanisms.³²
- **Integration with Sustainable-Development Goals (SDGs):** Aligning policy outcomes with SDG 1.3 (“Implement nationally appropriate social-protection systems”).³³

The research conducted between Brazil and South Korea shows that **universal social insurance systems** lead to better work performance and stronger economic stability at the national level which India should adopt.³⁴

9. Judicial Perspectives and Case Law

Judicial interpretation has significantly expanded the ambit of social insurance in India. The courts base their decisions on a **beneficial-construction approach** which prevents procedural

technicalities from blocking welfare program objectives.

The Supreme Court of India ruled in *Regional Director, ESI Corporation v. High Land Coffee Works of P.F.X. Saldanha & Sons (1991 2 SCC 424)* that the ESI Act requires "a liberal interpretation so as to fulfill its benevolent purpose."³⁵

The Court in *Bangalore Water Supply & Sewerage Board v. A. Rajappa (1978 2 SCC 213)* expanded the meaning of "industry" to include more businesses under ESI and EPF protection.³⁶

The Court has also connected social insurance to constitutional rights. The *People's Union for Democratic Rights v. Union of India (1982 3 SCC 235)** case determined that not providing statutory benefits such as provident fund contributions leads to fundamental rights violations under Articles 21 and 23.³⁷

The Supreme Court confirmed its stance on social-security laws through *State of Punjab v. Amrit Lal Jehlan (2021 SCC OnLine SC 946)** which required these laws to adjust for modern technology and population shifts.³⁸

These judgments collectively embody what scholars term "**welfare constitutionalism**", wherein the judiciary acts as a catalyst for realizing the socio-economic goals enshrined in the Constitution. The judiciary functions as the main driver which brings about welfare constitutionalism through these judicial decisions to achieve the constitutional social and economic objectives.

10. Conclusion

Social insurance in India has evolved from colonial-era labor-welfare statutes into a **comprehensive social-protection ecosystem** that blends constitutional vision, legislative action, and policy innovation. The program does not cover most workers who perform their jobs through informal arrangements or gig-based contracts.

The **Code on Social Security 2020** creates an opportunity to unify the system but its achievement depends on proper execution and sufficient financial resources and updated management techniques. The constitutional guarantee of social justice will become a reality

through a national plan which unites both contributory and non-contributory systems under digital governance and judicial oversight.

Justice Krishna Iyer describes welfare laws as the compassionate expression of the Constitution.³⁹ Social insurance thus stands not merely as a statutory obligation but as a moral and constitutional commitment to human dignity and economic democracy.

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