



A collage of laws that leaves the worker out in the cold

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(Mains GS 2 : Welfare schemes for vulnerable sections of the population by the Centre and the States and the performance of these schemes; mechanisms, laws, institutions and Bodies constituted for the protection and betterment of these vulnerable sections.)

Context:

- COVID-19 destroys lives and livelihoods specially low-paid and informal workers, who constitute 91% of the workforce.
- If these same informal workers had social security like free basic curative care in public clinics and hospitals, the elderly had old age pensions, the dying had death/disability insurance or life insurance, than suffering of the people decreases manifold.

Gaps in the code

- Indian Parliament in September 2020 passed a Social Security Code (SS Code 2020).
- This law set aside the issue of free basic curative health care, since the SS Code does not have that in its scope.
- The SS Code 2020 merges existing social security laws and attempts to include informal workers within the ambit of social security administration.
- However, an examination of the code reveals that universalisation of social security remains an unfulfilled aspiration.
- The SS Code 2020 amalgamates and rationalises the provisions of eight existing central labour laws.
- Of these acts, employees provident fund, employees state insurance (ESI), maternity benefit, gratuity are entirely for organised sector workers.
- For employees' state insurance, the existing employee threshold has been withdrawn and now the central government can extend ESI benefits to any organisation irrespective of the number of workers employed therein.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.

Hurdles for informal workers

- SS Code proposes that both the central and State governments will formulate schemes for unorganised workers.
- 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.
- 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.

Lack of awareness among informal workers:

- Previous 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).
- 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) and 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.
- Such requirements deter informal workers from completing the registration and they continue to remain outside the social security ambit.

Inter-State cooperation must

- 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.
- Ideally, the central government should conceptualise a basic structure, which if successful, should be adopted by States after necessary customisation.
- Without such a basic structure, implications of this code would be too varied across States to be administered.

- Providing holistic social security cover for the unorganised workforce in a simple and effective manner is something lost in the Centre-State labyrinth and jurisdictional or institutional overlap.
- The unorganised workforce is all encompassing, minus the minuscule regular workers of organised sectors.
- This identity should be primal and all unorganised workers should have basic social security coverage, irrespective of labour market classifications.
- The code fails to undertake such inclusion in a meaningful way.

Key benefits:

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.
- This obsession with thresholds of the number of workers employed was the bane of earlier labour laws too.

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.

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.

Lost opportunity:

- The provision of social security could be used to formalise the workforce to a certain extent.

- Employers could have been made to own up to the responsibility of providing social security to their workers.
- The state has a responsibility but the primary responsibility still lies with employers since they are taking advantage of workers' productivity.

Conclusion:

- Although there are financial constraints for the state but all the code does is to state that it will design schemes for informal workers as and when it deems fit.
- At a time when India chairs a BRICS meeting in Delhi (preparatory to a Summit) that focused on issues of labour, especially informality.
- Thus, India should focus on its ageing population which is without social security, and the demographic dividend of the young workforce that could support the ageing ends in 15 years.

Covid19