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From Employment to Citizenship? The Organised–Unorganised Divide in India's Social Security Architecture after the Code on Social Security, 2020

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Abstract

India's social protection coverage is reported to have risen from about 19 per cent of the population in 2015 to roughly 68 per cent in 2026, a shift the International Labour Organization has described as among the steepest recorded anywhere. Yet close to nine in ten Indian workers remain informally employed. This paper asks how both facts can be true at once, and what the answer reveals about the design of Indian social security law. It argues that the Indian system was constructed around the standard employment relationship, and that the Code on Social Security, 2020 – brought into force on 21 November 2025 and operationalised through the Social Security (Central) Rules, 2026 – consolidates that architecture without dissolving it. The Code universalises the language of entitlement while retaining the employer–employee relationship and numerical establishment thresholds as the mechanism through which enforceable rights arise; for the informal majority it substitutes registration, enumeration and discretionary schemes financed from a Social Security Fund whose contribution rates remain unnotified. The divide is therefore not abolished but re-inscribed, with statutory entitlement on one side and administrative enrolment on the other. The paper locates the origins of this design in colonial and early post-colonial statute-making, traces its constitutional underwriting in the non-justiciability of the Directive Principles and the Concurrent List allocation of labour, and tests the argument against the record of the informal-sector instruments, the e-Shram database and the delivery experience of local self-government institutions. Kerala's sectoral welfare fund boards are examined as an alternative model that decouples entitlement from the employment contract, and as a case of federal implementation asymmetry under a Concurrent List subject.

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Keywords: - Code on Social Security 2020, Informal Workers, Social Citizenship, Directive Principles of State Policy, Concurrent List, E-Shram, Kerala Welfare fund Boards, Social Protection Floor.

I. INTRODUCTION

In July 2026 the Union Minister for Labour and Employment announced that India's social protection systems covered approximately 101 crore people, or 68.8 per cent of the population, a figure acknowledged by the International Labour Organization (ILO) at the BRICS Labour and Employment Ministers' meeting. A decade earlier the comparable figure was about 25 crore, or 19 per cent. By any conventional measure this is a dramatic expansion, and India now ranks second in the world by absolute number of persons covered by at least one branch of social protection.

Set against this is a second fact that has not moved comparably. Successive official estimates, beginning with the National Commission for Enterprises in the Unorganised Sector (NCEUS) in 2007 and reaffirmed in Periodic Labour

Force Survey data since, place the informally employed share of the Indian workforce at close to nine in ten. The e-Shram portal, established in 2021 as the National Database of Unorganised Workers, had registered more than 31.78 crore workers as of 14 July 2026. Of these, fewer than one in five hundred were recorded as gig or platform workers, the category the law has most recently sought to bring within its ambit.

These two facts sit awkwardly together, and the tension between them is the subject of this paper. If coverage has more than trebled while the structure of employment has not, then either the meaning of "coverage" has changed, or the instruments through which coverage is delivered have changed, or both. The question is not merely statistical. It goes to whether the legal architecture of Indian social security has shifted its basis of entitlement from the employment contract to citizenship or whether it has retained the older basis while adding a parallel, administratively softer tier for those the older basis never reached.

The question has become newly urgent. The Code on Social Security, 2020 (Act 36 of 2020) was brought into force in substantial part on 21 November 2025 by notification S.O. 5319(E), simultaneously with the three other labour codes. It repealed nine central enactments, among them the Employees' Compensation Act, 1923, the Employees' State Insurance Act, 1948, the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, the Maternity Benefit Act, 1961, the Payment of Gratuity Act, 1972 and the Unorganised Workers' Social Security Act, 2008. A corrigendum followed on 20 December 2025; draft central rules were published in December 2025; and the Social Security (Central) Rules, 2026 were notified on 8 May 2026 by G.S.R. 344(E). Because labour is a Concurrent List subject, each State and Union Territory must separately frame rules, and at the time of writing a majority including Kerala, Maharashtra, Tamil Nadu, West Bengal, Punjab, Rajasthan, Telangana and Andhra Pradesh remain at draft stage. The statutory landscape described by most of the existing Indian scholarship on this subject no longer exists.

1.1. Research question and argument

This paper asks: does the Code on Social Security, 2020 dissolve the organised–unorganised divide in Indian social security, as its long title claims, or does it re-inscribe that divide under new terminology?

The argument advanced here is that it does the latter. Three features of the Code sustain this reading. First, the Code retains the employer–employee relationship as the trigger for its enforceable chapters: provident fund, state insurance, gratuity and maternity benefit all continue to attach to establishments meeting numerical thresholds, and the thresholds themselves are substantially those of the repealed Acts. Second, for the unorganised, gig and platform workforce the Code substitutes an enabling framework –registration on a portal, a Social Security Fund, and schemes "as may be framed" by the appropriate Government in which the operative entitlements are created by executive instrument rather than by statute, and can be withdrawn the same way. Third, the aggregator contribution of one to two per cent of turnover, which is the Code's principal fiscal innovation for platform work, remained unnotified as to rate at the time of writing, more than eight months after commencement.

The consequence is a system in which the reported expansion of coverage is real but categorically uneven. What has expanded most rapidly is enumeration the identification and registration of workers, and their linkage to in-kind and cash transfer schemes. What has expanded far less is enforceable, contributory, adequacy-tested entitlement of the kind Convention No. 102 contemplates. The paper argues that this asymmetry is not an implementation failure to be corrected by better administration. It is the predictable output of a legal design inherited from colonial factory legislation, underwritten by a constitutional settlement that made social security aspirational rather than justiciable, and distributed across a federal structure in which the operative rule-making power lies with States that have not exercised it uniformly.

1.2. Contribution and structure

The existing Indian literature on social security legislation is overwhelmingly descriptive and statute-by-statute. It has considerable value as exposition but rarely asks what the pattern of the statutes, taken together, reveals about the political theory of entitlement embedded in them. This paper attempts that reading, and does so at a moment when the statutory object has just been comprehensively reorganised, which makes the underlying design assumptions unusually visible.

Section 2 sets out the analytical framework, drawing on Marshall's account of social citizenship, Esping-Andersen's concept of decommodification, and the horizontal and vertical dimensions of extension in ILO Recommendation No. 202. Section 3 reviews the literature thematically and identifies the gap. Section 4 states the method and its limits. Section 5 traces the construction of the divide from 1855 to 1952. Section 6 examines the constitutional architecture, including the justiciability problem and the allocation of legislative competence. Section 7 presents the statutory regime and its consolidation in synoptic form. Section 8 turns to the instruments addressed to the informal majority. Section 9 assesses the Code against the research question. Section 10 examines delivery through local self-government institutions and the Kerala counter-model. Section 11 concludes.

II. ANALYTICAL FRAMEWORK

Three bodies of theory structure the analysis. Each supplies a distinct criterion against which the Indian arrangement can be assessed.

2.1. Social citizenship and the basis of entitlement

T. H. Marshall's *Citizenship and Social Class* (1950) proposed that citizenship in the modern state developed in three successive registers civil, political and social and that the social element consists in a right to a modicum of economic welfare and security claimed by virtue of membership of the political community rather than by virtue of contract or contribution. The distinction is analytically decisive for the present enquiry. A social security system organised on the Marshallian principle attaches entitlement to persons as citizens or residents; a system organised on the contributory-insurance principle attaches it to persons as parties to a recognised employment relationship. The two are not mutually exclusive, and most systems mix them, but the mix determines who is left out. Where the employment relationship itself is the dominant qualifying condition and the great majority of work is conducted outside any recognised employment relationship, the system will systematically exclude the majority however generous its benefits are to those inside it.

Marshall's framework has been criticised, properly, for generalising from a British trajectory in which formal wage employment became the norm. That criticism is precisely what makes it useful here. India industrialised without formalising, and the sequence Marshall described was never completed. Applying his criterion to India therefore does not import a teleology; it isolates a specific question on what basis does the law confer the entitlement? and holds it constant across a century of statutes.

2.2. Decommodification and stratification

Esping-Andersen's *The Three Worlds of Welfare Capitalism* (1990) supplies two further tools. Decommodification measures the degree to which a person can maintain a livelihood without reliance on the labour market. Stratification refers to the capacity of a welfare system to produce and entrench social divisions rather than dissolve them: systems that differentiate benefits by occupational status do not merely respond to existing hierarchies, they reproduce them. Read through this lens, the Indian statutory regime scores low on decommodification – the principal benefits presuppose and are calculated from wage employment and high on stratification, since a worker's benefit package has depended less on their need than on whether their employer's establishment crossed a numerical threshold. The paper uses stratification as its central diagnostic, because the organised–unorganised divide is a textbook instance of it.

2.3. Horizontal and vertical extension

ILO Recommendation No. 202 (2012) on Social Protection Floors distinguishes two dimensions along which a system may be extended. The horizontal dimension concerns the proportion of the population brought within at least a basic guarantee essential health care and basic income security across the life course. The vertical dimension concerns the progressive raising of benefit levels and the range of contingencies covered, ultimately towards the standards of Convention No. 102 (1952), which sets minimum benchmarks across nine branches: medical care, sickness, unemployment, old age, employment injury, family, maternity, invalidity and survivors' benefit. Convention No. 102 permits ratification in respect of any three branches, allowing incremental commitment; India has not ratified it.

This distinction resolves the apparent paradox with which the paper opened. India's reported coverage gain of roughly fifty percentage points since 2015 is a horizontal gain, and it is achieved substantially through in-kind and cash transfer programmes counted under the ILO's "at least one branch" criterion subsidised food, health insurance cover, small savings-linked insurance, and pension enrolments. It says almost nothing about the vertical dimension, and it is entirely consistent with the persistence of a workforce nine-tenths of which has no enforceable claim to sickness benefit, employment injury compensation or an earnings-related pension. Recommendation No. 202 is invoked here not as an aspirational standard but as a measurement discipline: it obliges the analyst to state which dimension is being described.

III. REVIEW OF LITERATURE

The scholarship relevant to this enquiry falls into four groups, and the gap this paper addresses lies at the intersection of the third and fourth.

3.1. Legal-expository scholarship

The largest body of Indian writing on social security is expository: it sets out the scope, eligibility conditions and benefit structure of each enactment in turn. Seth (1981) remains a useful early statement of the industrial-relations understanding of the field. Pradeep and Kalicharan (2016), Ritesh and Patel (2019) and Saritha (2022) exemplify the contemporary form, typically pairing a survey of the principal Acts with a summary of the relevant Directive Principles. Kharbanda and Kharbanda (2023) provide detailed commentary on provident fund law. This literature is accurate and pedagogically valuable, and the present paper relies on it for doctrinal detail. Its limitation is that it treats the statutes as a list rather than as a design, and consequently does not ask why the list has the shape it has. It also dates rapidly: virtually all of it describes enactments that ceased to be operative on 21 November 2025.

3.2. Constitutional scholarship

Austin (1999) remains the authoritative account of the Constituent Assembly's treatment of social and economic rights, and in particular of the decision to render the Directive Principles non-justiciable while declaring them fundamental to governance. Kashyap (2005) and Pylee (2002) provide standard expositions of the constitutional text; Laxmikanth (2018) is the reference point for the current allocation of subjects across the three Lists. This literature establishes the constitutional starting conditions but does not generally connect them to the operational architecture of the social security statutes, which is the connection this paper attempts.

3.3. Informality and coverage

A third body of work, more sociological and economic in orientation, takes the informal economy rather than the statute book as its unit of analysis. The NCEUS Report (Government of India, 2007), chaired by Arjun Sengupta, remains the single most important document in this group; its finding that the overwhelming majority of Indian workers are informally employed, and that a large share of them are poor or vulnerable, established the empirical premise for the Unorganised Workers' Social Security Act, 2008. Breman (2013) documents the lived conditions of informal work from the bottom up. Breman and Kannan (2013) assess the implementation record of the national social security initiatives directed at the working poor and find the gap between statutory promise and delivered benefit to be the defining feature of the field. Drèze and Sen (2013) situate social security within a broader account of India's uneven social development. This literature is largely correct in its diagnosis but does not typically work through the legal mechanics by which the exclusion is produced, treating the law as background rather than as explanandum.

3.4. Decentralisation and delivery

A fourth group examines the institutions through which benefits actually reach people. Heller (2001) analyses Kerala's democratic decentralisation as a case of state-society synergy; Isaac and Franke (2002) provide the fullest account of the People's Campaign for Decentralised Planning and the transfer of functions and funds to local bodies. Bardhan and Mookherjee (2006) supply the comparative framework for assessing whether decentralised delivery improves targeting. This literature is indispensable for understanding why identical legal entitlements produce divergent outcomes across States, but it has engaged relatively little with the specific question of how the 2020 Code allocates delivery responsibility.

3.5. The gap

What is missing is an account that treats the Indian social security statutes as a single design with an identifiable theory of entitlement, tests that theory against the informality data, and asks whether the 2020 consolidation changes it. The moment is opportune: consolidation of twenty-nine central labour enactments into four codes forces into the open the choices that were previously distributed across decades of separate legislation. This paper attempts that account.

IV. METHODOLOGY

The study is qualitative and doctrinal-analytical in method, combining three procedures.

The first is legal analysis of primary sources. The Code on Social Security, 2020 and the nine enactments it repeals have been read in their authoritative versions on the India Code portal maintained by the Legislative Department, Ministry of Law and Justice, rather than through secondary summaries. Commencement and rule-making instruments principally S.O. 5319(E) of 21 November 2025, the corrigendum of 20 December 2025, and G.S.R. 344(E) of 8 May 2026 notifying the Social Security (Central) Rules, 2026 have been consulted in the Gazette of India. Constitutional provisions are read with the leading Supreme Court decisions on the justiciability of social rights.

The second is documentary analysis of official reports and administrative data: the NCEUS Report (2007), Employees' State Insurance Corporation coverage statements, Ministry of Labour and Employment replies in Parliament regarding e-Shram registration, and ILO coverage estimates as reported on ILOSTAT. Administrative figures are treated as evidence of enrolment, not of benefit receipt, and this distinction is maintained throughout.

The third is comparative-institutional analysis at the sub-national level, using Kerala's sectoral welfare fund boards as a contrasting case of entitlement design and the uneven progress of State rule-making under the Code as an instance of federal implementation asymmetry.

Three limitations should be stated. First, the study is not empirical in the field sense: it does not present survey or interview data on benefit receipt, and its claims about delivery rest on published administrative and secondary sources. Second, the legal position is in motion. Several chapters of the Code await scheme notification, the aggregator contribution rate is unnotified, the pension transition period runs to 21 November 2026, and most States have not finalised rules; conclusions about the Code's operation are therefore provisional and stated as such. Third, the Kerala material is used illustratively, to establish the availability of an alternative design, and not as a controlled comparison from which causal inference about outcomes could be drawn.

V. THE CONSTRUCTION OF THE DIVIDE, 1855–1952

The organised–unorganised divide is not an accident of drafting. It is the sediment of a hundred years of statute-making in which the factory, and later the registered establishment, was the unit the law could see. This section traces that construction in a single chronological sequence, and identifies at each stage the choice that narrowed the field of protection.

5.1. Antecedents and the colonial factory

Pre-colonial Indian society distributed the burden of misfortune through non-statutory institutions. The joint family absorbed the costs of old age, illness and widowhood; occupational guilds pooled risk within trades; religious endowments and charitable foundations provided famine relief and medical care; and normative texts, the Manusmriti among them, articulated an obligation of the ruler towards the destitute. These arrangements were extensive but they were not rights. They rested on status, kinship and religious duty, and they conferred no claim enforceable against anyone. Their significance for the present argument is that when statutory social security arrived, it arrived not into a vacuum but into a society already accustomed to protection organised by membership of a group a habit of mind that would later make sectoral welfare boards intelligible in a way that individual insurance was not.

Colonial economic reorganisation dismantled much of this. The decline of handicraft production, the commercialisation of agriculture from the 1850s, the substitution of cash crops for food crops, and the growth of plantation labour in the tea and coffee boom of the 1860s and 1870s produced a wage-dependent workforce without the older cushions. The establishment of the first cotton and jute mills in 1851 and 1855 created concentrations of industrial workers in Bombay and Calcutta, and with them the characteristic industrial risks of injury, disease and destitution following the death of a breadwinner.

The colonial state's first response, the Fatal Accidents Act, 1855, was modelled on English law and permitted representatives of a deceased person to recover damages. It proved inadequate for industrial conditions because it required proof of negligence, which an injured worker was rarely in a position to establish. This failure defined the shape of what followed: rather than a general obligation of the state towards those harmed by economic life, Indian social security law developed as a series of employer liabilities, attached to specific categories of employment, and enforceable only by those who could show they stood in that employment relationship.

5.2. The inter-war statutes

The founding of the International Labour Organization in 1919 introduced an external standard-setting influence, and the emergence of organised trade unionism, formalised by the Indian Trade Unions Act, 1926, introduced an internal claimant. The Workmen's Compensation Act, 1923 replaced the negligence standard with a no-fault liability for personal injury arising out of and in the course of employment, and is properly regarded as the first Indian social security statute. It applied, however, only to scheduled categories of hazardous employment. The Provident Funds Act, 1925 provided for government industrial establishments and railways. The Royal Commission on Labour (Whitley Commission), reporting in 1931 after its 1929 enquiry, recommended health insurance for industrial workers and drew attention to maternity protection. Provincial maternity benefit legislation followed the Bombay Maternity Benefit Act, 1929, replicated in the Central Provinces in 1930 and elsewhere. The Employers' Liability Act, 1938 removed the common employment defence.

Every one of these instruments took the industrial or plantation workplace as its field of application. Agricultural labour, domestic work, home-based production, petty trade and self-employment then as now the great majority of Indian work were outside every one of them. The divide was thus fully constituted before independence, not as a policy failure but as the natural consequence of legislating through the factory.

5.3. The reconstruction moment, 1942–1948

Wartime planning for post-war reconstruction produced, within a few years, the intellectual apparatus of the modern welfare state. In Britain, the Beveridge Report on Social Insurance and Allied Services (1942) proposed a unified, contributory, universal scheme. In the United States, the Wagner–Murray–Dingell Bill (1943) proposed comprehensive federal social insurance. In Canada, the Marsh Report on Social Security for Canada (1943), prepared by Leonard Marsh, made the parallel case. These documents were closely followed in India and created pressure on the colonial administration to act.

Two Indian enquiries of 1944 are decisive for what followed. Professor B. P. Adarkar's Report on Health Insurance for Industrial Workers designed a contributory sickness and maternity insurance scheme for factory workers, and is the direct antecedent of the Employees' State Insurance Act, 1948; the Adarkar scheme, reviewed with ILO assistance, supplied the tripartite contributory structure that ESI retains to this day. The Labour Investigation Committee under D. V. Rege, reporting the same year, surveyed wages, housing, employment conditions and welfare across industries and recommended provision for old age, death and retirement including pensions, gratuities and provident funds. The third Labour Ministers' Conference in 1942 had already proposed sickness insurance for the cotton, jute, textile and heavy engineering industries.

Here the decisive choice was made. Both 1944 enquiries were framed in terms of industrial workers. The Beveridge model, which had been the immediate stimulus, was universal in principle it covered the whole population on a citizenship basis. The Indian adaptation retained the contributory mechanism and discarded the universality, on the reasoning that administrative capacity and contributory capacity alike were confined to the organised sector. That reasoning was defensible in 1944. Its persistence is what this paper is concerned with.

The post-independence statutes followed the pattern the enquiries had set: the Industrial Disputes Act, 1947 recognised gratuity as a claimable benefit; the Employees' State Insurance Act, 1948 implemented Adarkar; the Factories Act, 1948 regulated conditions; the Coal Mines Provident Fund and Bonus Schemes Act, 1948 created a compulsory provident fund for a single industry; and the Employees' Provident Funds Act, 1952 generalised the provident fund principle to scheduled establishments of a specified size. At the international level, the ILO adopted the Social Security (Minimum Standards) Convention No. 102 in 1952. India's engagement with ILO social security instruments has been partial: it ratified the early equality-of-treatment and workmen's compensation instruments Conventions Nos. 18, 19 and 42, adopted in 1925, 1925 and 1934 respectively but it has not ratified Convention No. 102, and the distinction between the year an instrument was adopted by the International Labour Conference and the year India ratified it is one that the secondary literature frequently collapses.

VI. THE CONSTITUTIONAL ARCHITECTURE

The Constitution both authorises and constrains Indian social security. It authorises it through an unusually explicit set of Directive Principles; it constrains it by making those Principles non-enforceable, by distributing legislative competence over labour between the Union and the States, and by assigning delivery to a third tier without a corresponding assignment of resources. This section examines each in turn.

6.1. The justiciability problem

Article 37 provides that the Directive Principles are not enforceable by any court, while declaring them nevertheless fundamental in the governance of the country and imposing a duty on the State to apply them in making laws. This is the pivotal provision for the present argument, and it is routinely omitted from expository accounts. Its effect is that the entire social security content of Part IV Article 38 on securing a social order informed by justice, Article 39 on adequate means of livelihood, distribution of material resources, equal pay and protection of health and strength of workers, Article 39A on equal justice and free legal aid, Article 41 on the right to work, education and public assistance in cases of unemployment, old age, sickness and disablement, Article 42 on just and humane conditions of work and maternity relief, Article 43 on a living wage and decent conditions, Article 43A on worker participation in management, Article 46 on the educational and economic interests of Scheduled Castes and Scheduled Tribes, and Article 47 on the raising of nutrition and public health confers no claim that a person can take to a court.

The Supreme Court's response, from the late 1970s onwards, was to read the Directive Principles into Article 21. This is the doctrinal engine of Indian social rights jurisprudence, and it is what makes the justiciability problem more complex than the bare text suggests.

- In Olga Tellis v. Bombay Municipal Corporation (1985) the Court held that the right to life under Article 21 includes the right to livelihood, since no person can live without the means of living; pavement dwellers evicted without hearing were held entitled to procedural protection.
- In Bandhua Mukti Morcha v. Union of India (1984) the Court read Articles 21, 39, 41 and 42 together to hold that the right to live with human dignity derives its life and breath from the Directive Principles, and issued directions for the identification and rehabilitation of bonded labourers.
- In Consumer Education and Research Centre v. Union of India (1995) the Court held the right to health and medical care of a worker to be a fundamental right under Article 21, read with Articles 39(e), 41 and 43, and issued directions on occupational health in the asbestos industry.
- In People's Union for Civil Liberties v. Union of India (2001 onwards) the Court converted food scheme guidelines into enforceable entitlements, appointed Commissioners to monitor compliance, and produced the jurisprudential ground on which the National Food Security Act, 2013 was subsequently built.

This jurisprudence is genuinely transformative, but its structure matters for the argument. It produces entitlements through judicial supervision of executive schemes rather than through statutory rights held by identifiable classes of beneficiary. It is therefore strongest where a scheme already exists and can be policed, and weakest where the question is whether a scheme should exist at all. It supplements the divide rather than dissolving it.

6.2. Legislative competence

Part XI and the Seventh Schedule distribute legislative power across three Lists. Following successive amendments the Union List now contains 98 entries, the State List 59 and the Concurrent List 52; the figures of 97, 66 and 47 that circulate widely in textbooks are the original 1950 numbers and should not be used. Two Concurrent List entries carry the whole of social security law:

- Entry 23: Social security and social insurance; employment and unemployment.
- Entry 24: Welfare of labour including conditions of work, provident funds, employers' liability, workmen's compensation, invalidity and old age pensions and maternity benefits.

Concurrency has two consequences that this paper treats as central. The first is that a central Code does not by itself operate uniformly: it requires the appropriate Government, which for most establishments is the State, to frame rules. The uneven progress of State rule-making under the 2020 Code with a minority of States having notified final rules and most major industrial States, Kerala among them, still at draft stage some eight months after commencement is not an administrative lag but a structural feature of legislating a Concurrent subject. The second is that concurrency permits States to build parallel structures of their own, which Kerala has done to an extent no other State has matched. Section 10 returns to both points.

6.3. The third tier and the delivery gap

The Seventy-third and Seventy-fourth Constitutional Amendment Acts, 1992 inserted Parts IX and IXA and the Eleventh and Twelfth Schedules, creating constitutionally mandated panchayats and municipalities. The Eleventh Schedule lists twenty-nine subjects that States may devolve to panchayats, and among them are rural housing, drinking water, poverty alleviation programmes, health and sanitation, family welfare, women and child development, social welfare including welfare of the handicapped and mentally retarded, welfare of the weaker sections and in particular of the Scheduled Castes and Scheduled Tribes, and the public distribution system.

This is the constitutional link between social security law and the institutions that actually deliver it, and it is the point at which the problem identified in the earlier version of this study the difficulties faced by local self-government institutions in delivering benefits connects to the statutory analysis. Article 243G makes devolution permissive: the Legislature of a State "may, by law, endow" panchayats with such powers and authority as may be necessary. Functions have in most States been devolved considerably further than funds or functionaries. The result is a tier charged with identification, verification, grievance redress and last-mile delivery of entitlements it did not create, cannot vary, and is not resourced to administer. Section 10 examines the consequences.

6.4. Constitutional mapping

Table 1. Constitutional provisions bearing on social security, with enforceability status

Provision	Content relevant to social security	Enforceability and effect
Art. 14, 15, 16	Equality before the law; non-discrimination; equality of opportunity in public employment.	Fundamental Right. Basis for challenges to arbitrary classification in benefit schemes.
Art. 21	Protection of life and personal liberty.	Fundamental Right. Judicially expanded to include livelihood, health, shelter and food; the operative vehicle for social rights.
Art. 21A	Free and compulsory education, ages 6 to 14.	Fundamental Right, inserted by the 86th Amendment, 2002; given effect by the RTE Act, 2009.
Art. 23, 24	Prohibition of traffic in human beings and forced labour; prohibition of child labour in hazardous employment.	Fundamental Rights. Basis of the bonded labour jurisprudence.
Art. 37	Directive Principles not enforceable by any court, but fundamental in governance.	The constraining provision. Converts the whole of Part IV into a duty on the State without a correlative right.
Art. 38, 39, 39A	Social order informed by justice; adequate livelihood; distribution of material resources; equal pay; health and strength of workers; free legal aid.	Directive Principle. Read into Art. 21 in Bandhua Mukti Morcha and CERC.
Art. 41	Public assistance in cases of unemployment, old age, sickness and disablement.	Directive Principle. The closest textual analogue to a right to social security.
Art. 42	Just and humane conditions of work and maternity relief.	Directive Principle. Constitutional basis of maternity benefit legislation.
Art. 43, 43A	Living wage, decent standard of life, social and cultural opportunities; worker participation in management.	Directive Principle. Largely unimplemented in respect of the living wage.
Art. 45	Early childhood care and education for all children below the age of six.	Directive Principle as substituted by the 86th Amendment, 2002. The pre-2002 text on education to age 14 is now Art. 21A.
Art. 46, 47	Promotion of educational and economic interests of weaker sections; raising of nutrition, standard of living and public health.	Directive Principle. Art. 47 underpins food and nutrition programmes.
Seventh Sch., List III, Entries 23 and 24	Social security and social insurance; employment and unemployment. Welfare of labour, provident funds, employers' liability, workmen's compensation, invalidity and old age pensions, maternity benefits.	Concurrent competence. Requires State rule-making for operation; permits parallel State schemes.
Art. 243G, 243W and Eleventh Schedule	Permissive devolution to panchayats and municipalities of poverty alleviation, social welfare, health, family welfare and the public distribution system.	Constitutional but permissive. Functions devolved ahead of funds and functionaries.

Note: List entry counts as currently in force are 98 (Union), 59 (State) and 52 (Concurrent).

VII. THE STATUTORY REGIME AND ITS CONSOLIDATION

Nine central enactments constituted the operative statutory core of Indian social security until 21 November 2025. This section presents them synoptically, because the analytical point emerges from the pattern rather than from any individual statute, and then examines two of them more closely where the earlier literature has been least accurate.

7.1. The nine statutes and their status

Table 2. The nine central enactments subsumed by the Code on Social Security, 2020

Enactment	Application threshold	Principal benefit	Status
Employees' Compensation Act, 1923 (formerly Workmen's Compensation Act)	Scheduled hazardous employments; excludes those covered by ESI	No-fault compensation for injury, occupational disease or death arising out of and in the course of employment	Repealed; substantially re-enacted as Chapter VII of the Code
Employees' State Insurance Act, 1948	Establishments with 10 or more employees in notified areas; wage ceiling ₹21,000 (₹25,000 for persons with disability)	Six benefits under s. 46: medical, sickness, maternity, disablement, dependants' and funeral expenses	Repealed; Chapter IV of the Code. Existing scheme continues until a new scheme is framed
Employees' Provident Funds and Miscellaneous Provisions Act, 1952	Scheduled establishments with 20 or more employees	Provident fund (1952 Scheme), pension (EPS 1995), deposit-linked insurance (EDLI 1976)	Repealed; Chapter III of the Code. Pension transition period runs to 21 November 2026
Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959	Establishments in specified categories	Notification of vacancies; labour market information	Repealed; Chapter XIII of the Code
Maternity Benefit Act, 1961	Establishments with 10 or more employees, other than those covered by ESI	26 weeks paid leave for the first two surviving children, 12 weeks thereafter; crèche facility at 50 or more employees	Repealed; Chapter VI of the Code
Payment of Gratuity Act, 1972	Establishments with 10 or more employees	15 days' wages for each completed year of service after five years of continuous service; ceiling ₹20 lakh since 2018	Repealed; Chapter V of the Code, with pro-rata gratuity for fixed-term employees
Cine Workers Welfare Fund Act, 1981	Cine workers in specified productions	Welfare fund benefits	Repealed; subsumed within the Code's fund provisions
Building and Other Construction Workers Welfare Cess Act, 1996	Construction establishments; cess on cost of construction	Cess-financed welfare benefits administered by State boards	Repealed; Chapter VIII of the Code
Unorganised Workers' Social Security Act, 2008	Unorganised workers as defined; registration-based	Enabling framework for schemes; National and State Social Security Boards	Repealed; Chapter IX of the Code

Note: The National Food Security Act, 2013, the Mahatma Gandhi National Rural Employment Guarantee Act, 2005 and the National Social Assistance Programme lie outside the Code and are unaffected by it.

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Read down the second column, the pattern is unmistakable. With the single exception of the 2008 Act, every enactment is triggered by an establishment of a specified size employing a specified class of person, and in two cases by a wage ceiling as well. The 2008 Act, which alone addressed the informal majority, was framed not as a source of entitlement but as an enabling instrument under which the appropriate Government might formulate schemes and it is telling that this was the one statute in the list that conferred no benefit directly.

7.2. Maternity benefit as a case of threshold exclusion

Maternity protection illustrates the general pattern with unusual clarity, and it has been widely mis-described. The Maternity Benefit Act, 1961 provided a common standard for women in factories, mines and plantations and, after the 1976 amendment, for establishments not covered by ESI. The Maternity Benefit (Amendment) Act, 2017 which is the correct citation for the instrument variously described in the secondary literature as a "Maternal Welfare Act" gave effect to the Maternity Benefit (Amendment) Bill, 2016. It raised paid leave from twelve to twenty-six weeks for women with fewer than two surviving children, retained twelve weeks for those with two or more, provided twelve weeks for commissioning and adopting mothers of children below three months, permitted work from home by agreement where the nature of work allows, and required a crèche facility in establishments with fifty or more employees, with four visits to the crèche permitted during the day.

Three corrections to the received account follow. First, the 2017 amendment applies to establishments employing ten or more persons that is, to the organised sector. The claim that it extends twenty-six weeks of leave to women in the unorganised sector inverts its effect: the roughly 1.8 million beneficiaries estimated at the time of enactment were organised-sector employees, and the informal majority of working women were and remain outside it. Second, the comparative claim that India offers the third-longest maternity leave in the world after Norway and Canada does not survive scrutiny; it conflates statutory maternity leave with total parental leave, and several jurisdictions including Bulgaria and the United Kingdom provide longer maternity entitlements. Third, twenty-six weeks is a paid-leave entitlement enforceable against an employer, not a maternity benefit payable from a fund; where there is no identifiable employer there is no obligor, which is the mechanism of exclusion.

The instrument that does address informally employed women is Pradhan Mantri Matru Vandana Yojana, a conditional maternity benefit paid to pregnant and lactating mothers. Its cash value is a fraction of twenty-six weeks' wages, it is conditional on registration and immunisation milestones, and it is a scheme rather than a right. The contrast between the two instruments identical contingency, radically different legal form and value, allocated by employment status is Esping-Andersen's stratification in a single frame.

7.3. Employees' State Insurance: the contributory model

ESI merits closer attention because it is the most fully developed contributory scheme in the Indian system and therefore the clearest test of what the contributory model can and cannot do. Its structure derives from the Adarkar Report (1944). Section 46 of the 1948 Act enumerated six benefits: medical benefit, comprising full medical care for the insured person and dependants; sickness benefit, a periodical cash payment during certified sickness; maternity benefit; disablement benefit, temporary or permanent, following employment injury; dependants' benefit, a periodical payment to the widow and to children up to the prescribed age where employment injury causes death; and funeral expenses. Financing is tripartite in principle and bipartite in practice: since July 2019 the employer contributes 3.25 per cent and the employee 0.75 per cent of wages, with State Governments sharing the cost of medical care. The wage ceiling stands at ₹21,000 per month, and ₹25,000 for persons with disability. The scheme has been progressively notified across districts, and beneficiary numbers have grown substantially over the past decade; current figures should be taken from the ESIC standard note rather than from secondary sources, which are frequently out of date.

The design is coherent and, for those within it, comparatively generous by the standards of Recommendation No. 202. It is also, by construction, closed. Entry requires an employer who registers, deducts and remits; a wage below a ceiling; and employment in a notified area. A construction worker moving between contractors, a domestic worker with several employers, and a platform worker whose principal denies being an employer at all cannot satisfy the first condition, and no amount of administrative improvement will alter that, because the barrier is definitional rather than operational.

VIII. THE MISSING MAJORITY: INSTRUMENTS FOR THE UNORGANISED WORKFORCE

An account of Indian social security that stops at the nine statutes describes the arrangements available to roughly one worker in ten. This section sets out the parallel apparatus constructed for the other nine, and characterises its legal form.

8.1. The NCEUS diagnosis

The National Commission for Enterprises in the Unorganised Sector, chaired by Arjun Sengupta, reported in 2007 on conditions of work and promotion of livelihoods in the unorganised sector. Its findings reframed the field: the overwhelming majority of Indian workers were informally employed, including a substantial and growing number employed informally within organised-sector enterprises; a large share lived at or near subsistence; and the existing social security statutes reached almost none of them. The Commission recommended a national minimum social security package health insurance, life and disability cover, and old age security delivered on a universal basis to unorganised workers and financed substantially from general revenues. The recommendation was for a floor conferred by status, not by contract.

8.2. The instruments and their legal form

Table 3. Principal instruments addressed to the unorganised workforce

Instrument	Year	Mechanism and financing	Basis of entitlement
National Social Assistance Programme (IGNOAPS, IGNWPS, IGNDPS, NFBS)	1995	Central assistance to States for old age, widow and disability pensions and family benefit; tax-financed, with State top-ups	Scheme. Means-tested, targeted at below-poverty-line households; central contribution nominal in real terms
Mahatma Gandhi National Rural Employment Guarantee Act	2005	Legal guarantee of 100 days of unskilled manual wage employment per rural household per year; tax-financed	Statutory right, with unemployment allowance for failure to provide work. The principal exception to the pattern
Unorganised Workers' Social Security Act	2008	National and State Social Security Boards; registration and identity cards; schemes listed in the Schedule	Enabling statute. Conferred no direct benefit; repealed by the Code
National Food Security Act	2013	Subsidised grain to 75 per cent of the rural and 50 per cent of the urban population through the TPDS; free of cost under PMGKAY since January 2023, extended to December 2028	Statutory entitlement to a quantity of grain; 5 kg per person per month for priority households, 35 kg per household for Antyodaya Anna Yojana
Pradhan Mantri Matru Vandana Yojana	2017	Conditional cash transfer to pregnant and lactating mothers in instalments, tied to registration and immunisation	Scheme. Conditional, and a fraction of the value of statutory maternity leave
Ayushman Bharat – PM-JAY	2018	Tax-financed hospitalisation cover for identified poor and vulnerable families	Scheme. Covers secondary and tertiary hospitalisation, not income replacement
e-Shram National Database of Unorganised Workers	2021	Self-declared Aadhaar-linked registration; Universal Account Number; integration of fifteen central schemes as a single access point	Registration platform. Confers identification and scheme access, not entitlement
Code on Social Security, 2020, Chapters IX and X	2020 (in force 2025)	Social Security Fund; aggregator contribution of 1–2 per cent of turnover for gig and platform workers, subject to notification	Enabling framework. Schemes to be framed by the appropriate Government

The column that matters is the fourth. With the significant exception of MGNREGA, and the partial exception of the National Food Security Act, the instruments addressed to the informal majority confer scheme access rather than statutory entitlement. They are created by executive decision, funded by annual budgetary allocation, and revisable or withdrawable without legislative process. MGNREGA is the exception that establishes the possibility: it demonstrates that Parliament can confer an enforceable social security right on a class defined by residence rather than by employment status, and that such a right can be administered at scale through local self-government institutions.

8.3. Enumeration and its limits

The e-Shram portal, launched in August 2021, is the most consequential recent development in this tier. By 14 July 2026 it recorded more than 31.78 crore registered unorganised workers, with Uttar Pradesh accounting for 8.45 crore, followed by Bihar, West Bengal, Madhya Pradesh and Maharashtra; a majority of registrants are women. Fifteen central schemes have been mapped to the platform, with One Nation One Ration Card linked for 24.46 crore beneficiaries, Ayushman Bharat for 15.10 crore, and Pradhan Mantri Suraksha Bima Yojana for 8.53 crore.

Two observations follow. The first concerns what registration achieves. e-Shram solves an identification problem that had defeated Indian social policy for decades, and identification is a genuine precondition of any universal system; the linkage figures above represent real access to real benefits. The second concerns what it does not achieve. Of 31.78

crore registrants, the number recorded as gig and platform workers stood at roughly five lakh at the end of 2025 about one in six hundred in a segment credibly estimated in the tens of millions. Registration is self-declared, and the categories that carry the newest legal significance are those in which self-declaration is least likely, because the worker's own understanding of their status is contested by the entity engaging them. More fundamentally, a Universal Account Number is a key to schemes that already exist; it does not create a benefit, and it does not make an existing benefit enforceable.

IX. DOES THE CODE UNIVERSALISE? AN ASSESSMENT

The long title of the Code on Social Security, 2020 states its object as amending and consolidating the laws relating to social security with the goal of extending social security to all employees and workers, whether in the organised or unorganised or any other sector. This section assesses that claim against the Code's structure.

9.1. What the Code changes

Four changes are real and should be credited. First, definitional coverage: the Code defines gig worker, platform worker, aggregator and unorganised worker, bringing categories previously invisible to central labour law within its vocabulary and creating the conceptual space for their coverage. Second, the aggregator levy: Chapter IX contemplates a contribution by aggregators of between one and two per cent of annual turnover, subject to a ceiling of five per cent of the amount paid to gig and platform workers, which is a genuine attempt to attach a financing obligation to a principal who denies being an employer. Third, fixed-term employees become eligible for gratuity on a pro-rata basis from the commencement of employment, ending an exclusion that had made fixed-term contracting a device for avoiding the five-year qualifying period. Fourth, consolidation itself reduces the compliance and comprehension burden of nine overlapping statutes with inconsistent definitions of wages, employee and establishment, and the Social Security (Central) Rules, 2026 substitute a single portal-based registration and filing architecture for a fragmented one.

9.2. What the Code does not change

Against this stand four continuities, and they are structural rather than incidental.

The threshold architecture survives. Chapters III to VII – provident fund, state insurance, gratuity, maternity benefit and employees' compensation continue to apply to establishments meeting numerical thresholds, and the operative rights within them continue to depend on an employer–employee relationship. A worker outside such a relationship acquires nothing from these chapters. The Code has re-housed the organised-sector regime; it has not opened it.

The unorganised tier remains an enabling framework. Chapters IX and X provide that the appropriate Government may frame schemes, that a Social Security Fund shall be constituted, and that unorganised, gig and platform workers may be registered. These are powers, not entitlements. The Code thus reproduces the legal form of the Unorganised Workers' Social Security Act, 2008 that it repeals a statute widely judged to have failed precisely because it enabled rather than conferred.

The financing of the unorganised tier is unresolved. The aggregator contribution rate, which is the mechanism by which the Code would place the informal tier on a contributory footing comparable to ESI, awaits notification. Until it is notified and collected, Chapter IX is a container without contents. The transitional position compounds this: existing EPF and ESI schemes continue in their current form until new schemes are framed under the Code, and the pension transition period runs to 21 November 2026.

Uniform operation depends on State rules that mostly do not yet exist. Because labour is concurrent, the Central Rules of 8 May 2026 bind only establishments for which the Central Government is the appropriate Government. Around eleven States had notified final rules at the time of writing; most major industrial States, including Kerala, remained at draft stage. In those jurisdictions employers apply the central rules alongside surviving State rules and transitional notifications, and workers face a legal position that is, in practice, indeterminate.

9.3. The answer

On the framework set out in Section 2, the assessment is as follows. In Marshallian terms, the Code does not shift the basis of entitlement from contract to membership: it extends the vocabulary of coverage to non-employees while retaining the employment relationship as the trigger for every enforceable benefit. In Esping-Andersen's terms, it leaves decommodification substantially unchanged and preserves stratification, now expressed as a distinction between chapters that confer rights and chapters that authorise schemes. In the terms of Recommendation No. 202, it is a horizontal instrument: it extends the population within the system's field of vision without raising the floor for those newly included.

The reported movement from 19 per cent to roughly 68 per cent coverage is therefore best understood as a horizontal achievement delivered principally by tax-financed programmes food, health insurance, pensions, and cash transfers counted under the ILO's "at least one branch" criterion, rather than as evidence that the statutory divide has closed. Both propositions can be true, and the argument of this paper is that they are. The Code re-inscribes the divide: statutory entitlement on one side, administrative enrolment on the other, with the boundary drawn where it has been drawn since 1923.

X. DELIVERY, DECENTRALISATION AND THE KERALA COUNTERPOINT

A legal entitlement that cannot be claimed is not, for the person unable to claim it, distinguishable from no entitlement at all. This section examines the delivery tier and then a State-level design that departs from the national pattern.

10.1. Local self-government institutions as the delivery tier

The instruments described in Section 8 are delivered overwhelmingly through panchayats and municipalities: identification of eligible households, verification of claims, maintenance of registers, disbursement or facilitation of disbursement, and first-instance grievance redress. The Eleventh Schedule contemplates this, but Article 243G makes the transfer permissive, and the well-documented consequence is that functions have been devolved further than funds or functionaries in most States.

The recurring difficulties are of five kinds, and they are analytically distinct. Procedural difficulties complex application requirements, documentation demands and delays in sanction raise the effective cost of claiming to a level that screens out the poorest applicants. Integrity failures leakage, diversion of funds and discretionary allocation convert entitlements into favours and are hardest to police precisely where accountability institutions are weakest. Fiscal constraints inadequate untied funds and irregular release of transfers leave local bodies administering entitlements they cannot finance. Identification failures the exclusion of remote, migrant and marginalised populations from beneficiary lists concentrate at exactly the margin the schemes exist to reach. Digital constraints uneven connectivity and low digital literacy have become more consequential as registration and disbursement have moved online, and the e-Shram model transfers the burden of self-declaration onto the person least equipped to bear it.

It is worth being precise about the relationship between these difficulties and the argument of this paper. They are not the cause of the coverage gap; the gap is produced by the design analysed in Sections 7 and 9. But they determine how much of the enabling tier is realised in practice, and because the enabling tier is where the informal majority is located, delivery capacity bears disproportionately on precisely those workers whose entitlements are weakest in law. Weak rights and weak delivery are not independent problems affecting different populations. They compound on the same population.

10.2. Kerala: welfare boards as an alternative design

Kerala has for five decades pursued a different approach to the same problem, and it is instructive because it decouples entitlement from the individual employment contract without waiting for central legislation to do so. Beginning with the Kerala Toddy Workers' Welfare Fund Act, 1969 and extending through the Kerala Agricultural Workers Act, 1974 and the Kerala Headload Workers Act, 1978, the State has constituted a large number of sectoral welfare fund boards more than two dozen, covering toddy tappers, headload workers, agricultural labourers, cashew and coir workers, autorickshaw and motor transport workers, domestic workers, tailors, barbers, fishermen, artisans and others.

The design has three features that distinguish it from the central model. Membership attaches to the occupation rather than to a named employer, which removes the identification of an obligor as a precondition of coverage. Financing is tripartite in a modified form: worker contributions, a levy on employers or on the product or transaction where an employer is not identifiable, and a State contribution. And administration is tripartite, with worker representatives on the boards, which has sustained enrolment through periods when central schemes have stagnated. Benefits typically include a monthly pension in the range of ₹1,200 to ₹1,600, together with medical, educational, maternity, marriage and death assistance.

The limitations should be stated as plainly as the strengths. Pension values are modest in absolute terms and have not kept pace with prices. Several boards face actuarial strain, with contributions insufficient to meet accruing liabilities. Coverage is uneven across sectors, and the newest forms of work platform-mediated delivery and transport fit the sectoral model imperfectly. The Kerala arrangement is not a solution to be transplanted. Its analytical significance is narrower and more important: it establishes that the identification of an employer is not a necessary condition of a contributory social security entitlement, and therefore that the central model's reliance on that identification is a choice rather than a constraint.

10.3. Federal asymmetry under a Concurrent subject

Kerala is also a case of the second consequence of concurrency identified in Section 6.2. The State has been among the most vocal critics of the four labour codes, objecting in particular to provisions on working hours, the thresholds for retrenchment and closure approval, and the implications of the codes for its own welfare board structure, and it has not notified final rules. It is joined in draft status by Maharashtra, Tamil Nadu, West Bengal, Punjab, Rajasthan, Telangana and Andhra Pradesh, while a smaller group including Madhya Pradesh, Uttar Pradesh, Gujarat, Karnataka, Haryana, Uttarakhand, Jharkhand, Odisha, Bihar, Chhattisgarh and Assam has notified.

This is not simply administrative delay, and it should not be analysed as such. A Concurrent List subject in which the operative rules are made by States produces, predictably, a patchwork in which the content of a national entitlement varies by jurisdiction and by the political orientation of the State government. The Code's claim to universality is thus qualified twice over: once by its internal division between conferring and enabling chapters, and once by a federal structure in which the enabling chapters are operationalised, or not, at State discretion. For a State such as Kerala with a developed parallel apparatus, the incentive to accelerate is weak; for a State without one, the delay leaves informal workers with neither the old State schemes nor the new central framework. Either way, the outcome is asymmetry, and asymmetry is the enemy of a floor.

XI. CONCLUSION

This paper asked whether the Code on Social Security, 2020 dissolves the organised–unorganised divide in Indian social security or re-inscribes it. The evidence assembled here supports the second conclusion.

The divide was constituted between 1923 and 1952 by a series of statutes that took the factory and the registered establishment as the unit of protection, and it was not an oversight: it followed from a reasoned judgement, defensible at the time, that contributory capacity and administrative reach were confined to the organised sector. The Constitution neither entrenched nor dismantled that judgement. It supplied an extensive vocabulary of social and economic obligation in Part IV, withheld enforceability through Article 37, distributed competence over labour to the Concurrent List, and assigned delivery to a local tier whose funding it left to State discretion. The judiciary subsequently read much of Part IV into Article 21, producing a substantial social rights jurisprudence, but that jurisprudence operates by supervising executive schemes and is therefore strongest where a scheme exists and weakest where the question is whether one should.

The 2020 Code consolidates this inheritance without altering its principle. It extends the vocabulary of coverage to gig, platform and unorganised workers, and it creates a plausible financing mechanism in the aggregator levy. But it retains the employment relationship and the establishment threshold as the trigger for every chapter that confers an enforceable right, and it consigns the informal majority to chapters that authorise schemes rather than confer entitlements reproducing the legal form of the 2008 Act it repeals. The aggregator rate remains unnotified; most States have not framed rules; the pension transition is incomplete. What has expanded, and expanded genuinely and at remarkable speed, is enumeration: e-Shram has solved an identification problem that defeated Indian social policy for half a century, and the linkage of registration to fifteen central schemes has delivered real benefits to hundreds of millions. That is a horizontal achievement in the sense of Recommendation No. 202, and it is compatible with, rather than evidence against, the persistence of the divide.

Two implications follow for policy. The first is that closing the divide requires detaching entitlement from the identification of an employer, and Kerala’s welfare boards demonstrate that this is administratively feasible even under a contributory design, provided the levy attaches to an occupation, a product or a transaction rather than to a contract of employment. The aggregator levy in Chapter IX is precisely such a mechanism, which makes its non-notification the single most consequential pending decision under the Code. The second is that a floor which varies by State is not a floor. If the Code’s enabling chapters are to mean anything, the minimum content of the schemes framed under them requires specification centrally, leaving States free to exceed but not to omit.

Three lines of further enquiry follow directly. The first is empirical work on benefit receipt as distinct from registration among e-Shram registrants, which would test the enumeration argument advanced here against household evidence. The second is a comparative study of welfare board performance across the States that operate them, which would establish whether the Kerala design travels. The third, and the most urgent, is close observation of the State rule-making process over the next two years, since it is there rather than in the Code itself that the operative content of Indian social security law is now being settled.

REFERENCES

Austin, G. (1999). *The Indian Constitution: Cornerstone of a nation*. Oxford University Press

Bandhua Mukti Morcha v. Union of India, (1984) 3 SCC 161.

Bardhan, P., & Mookherjee, D. (Eds.). (2006). *Decentralization and local governance in developing countries: A comparative perspective*. MIT Press.

Breman, J. (2013). *At work in the informal economy of India: A perspective from the bottom up*. Oxford University Press.

Breman, J., & Kannan, K. P. (Eds.). (2013). *The long road to social security: Assessing the implementation of national social security initiatives for the working poor in India*. Oxford University Press.

Consumer Education and Research Centre v. Union of India, (1995) 3 SCC 42.

Drèze, J., & Sen, A. (2013). *An uncertain glory: India and its contradictions*. Princeton University Press.

Esping-Andersen, G. (1990). *The three worlds of welfare capitalism*. Polity Press.

Government of India. (2007). *Report on conditions of work and promotion of livelihoods in the unorganised sector*. National Commission for Enterprises in the Unorganised Sector.

Heller, P. (2001). Moving the state: The politics of democratic decentralization in Kerala, South Africa, and Porto Alegre. *Politics & Society, 29*(1), 131–163.

Isaac, T. M. T., & Franke, R. W. (2002). *Local democracy and development: The Kerala People's Campaign for Decentralized Planning*. Rowman & Littlefield.

Kashyap, S. C. (2005). *Our Constitution*. National Book Trust.

Kharbanda, V. K., & Kharbanda, V. (2023). *Commentaries on Employees' Provident Fund and Miscellaneous Provisions Act, 1952*. Law Publishing House.

Laxmikanth, M. (2018). *Indian polity* (5th ed.). McGraw Hill Education.

National Food Security Act, 2013 (Act 20 of 2013).

Olga Tellis v. Bombay Municipal Corporation, (1985) 3 SCC 545.

Pradeep, M. D., & Kalicharan, M. (2016). Social security measures for the Indian workforce: A legal intervention. *International Journal of Computational Research and Development, 1*(1), 47–55.

Pylee, M. V. (2002). *India's Constitution*. S. Chand and Company.

Ritesh, P., & Patel, A. (2019). Social security legislation in India. *Journal of Emerging Technologies and Innovative Research, 6*(3), 12–15.

Saritha, L. K. (2022). Social security needs and benefits in India: A constitutional basis. *International Journal of Law, 8*(6), 161–164.

Seth, R. B. (1981). *Indian labour laws: A supervisor should know*. All India Management Association.