



Unveiling the Dynamics of Nepal's Contribution-Based Social Security: A Legal Perspective

Laxmi Sharma*

Abstract

A contribution-based social security system is one of the forms of social security measures where an employer, employee, or individual (self-employee) contributes financially to fund social security benefits. Nepal's social security landscape is undergoing a significant evolution because of the enactment of the Social Security Act of 2018 and the Contribution-Based Social Security Act of 2017. However, this article aims to delve into the legal framework underpinning Nepal's Contribution-Based Social Security, unravelling its intricacies and implications. By analyzing the governing legislation, this article examines the structure, mechanisms, and dynamics of Nepal's Contribution-Based Social Security regime. It explores the roles of various stakeholders, such as employers, employees, self-employees, and regulatory bodies, in implementing and managing the system. Additionally, the article scrutinizes the challenges and benefits inherent in Nepal's transition towards CBBS, addressing issues of inclusivity, sustainability, and compliance. Through a comprehensive legal perspective, this article contributes to a deeper understanding of Nepal's evolving social security paradigm, particularly of Nepal's contributory workforce.

Keywords: *Social Protection, Social Assistance, Social Insurance, Labour welfare, and Social Justice*

* LL.M. (UIO, Norway), LL.M. (Nepal Law Campus, T.U), MRD (Rural Development, T.U), Assistant Professor, Faculty of Law, Tribhuvan University, Nepal.

Introduction

The right to social security is a basic human right¹ that entrusts confidence and motivation to an individual or a workforce. The social security scheme can also be taken as a measure for building a harmonious relationship between employer and employee, job stability, and empowering the workforce. It reveals that investment in a social security scheme by either employer or government or both is a ‘good investment’ that helps for the sustainable social and economic growth of those who are associated with the business entity for delivering knowledge, skill, and physical energy. Also, it can be understood as empowering the future of the workforce of any country.

The definition, notions, and approaches of social security are evolving and growing in the international arena. There is not any unanimous acceptance of a specific date to trace for addressing the inception of the concept of social security to date. Nevertheless, some literature mentioned that Germany introduced social security in 1833 for the first time.² However, the concept and dynamics of social security have gradually developed in line with each country’s needs, requirements, and socio-economic and political context. The wider realization of instrumentalizing the concept of social security can be seen mainly after the Industrial Revolution, which lasted from the mid-eighteenth century.³ Countries such as India and Sri Lanka implemented social security measures shortly after gaining independence in the late 1940s⁴. Conversely, in countries like Nepal, such measures have only been introduced in more recent decades.

¹ Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III) (UDHR) art. 22 and art.25 (1) Article 22 states, “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.”

² S.R. Samant, *Industrial Jurisprudence*, (N.M. Tripathi Pvt.Ltd. Bombay, 2000)208

³ Pawan. Ojha. *Industrial Jurisprudence*, (Lumbhini Prakashan, Kathmandu, 2017)200

⁴ South Asian Regional Trade Council<<https://www.sartuc.org/issue/an-overview-of-social-protection-in-saarc-countries/>>> (accessed on 18/06/2024).

With the pace of the growth in understanding the notions of human rights, the right to social security has been strongly affirmed as a human right in international law. Fundamentally, the Declaration of Philadelphia, 1944 has explicitly outlined the human rights dimensions of social security as “the extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care”.⁵ Such measures also include the Social Security (Minimum Standards) Convention, 1952 (No.102), other instruments relating to medical care, sickness benefits, unemployment benefits, old-age benefits, employment injury benefits, family benefits, maternity benefits, invalidity benefits, and survivors’ benefit have been developed. Broadly speaking, the ILO instruments do not have a reservation clause; thus, they are non-derogatory in nature.⁶ But while offering protection in terms of scope and level of benefits to be guaranteed, these instruments ensure flexibility on certain exception clauses.⁷

More importantly, the International Covenant on Economic Social and Cultural Rights (ICESCR), 1966 affirmed the importance of the right to social security for maintaining human dignity as it is required for all persons of every state.⁸ To effectuate social security for all, the state must endorse the laws and mechanisms that ensure the maximum utilization of the available resources to all without any discrimination, including social insurance.⁹ The provisions enshrined in the covenant have wider coverage for its effectuation and guarantee

⁵ Declaration concerning the aims and purposes of the International Labour Organization (ILO), annex to the Constitution of the ILO, Section III(f), <<https://www.ilo.org/static/english/inwork/cb-policy-guide/declarationofPhiladelphia1944.pdf> ::>> (accessed on 15 03 2024)

⁶ Reservation, <:<https://www.ilo.org/global/about-the-ilo/how-the-ilo-works/organigramme/jur/legal-instruments> ::> (accessed on 3/20/2024)

⁷ Ibid, International Labour Standards on Social Security (5)

⁸ International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 1453 (ICESCR) art 9

⁹ International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 1453 (ICESCR) art 2(1)

the enjoyment of these human rights by everyone.¹⁰ In addition to this, other international human rights treaties¹¹ and regional human rights treaties¹² have given equal importance to the application of the right to social security. The range of the minimum standard guaranteed by this varies by country, and the specifics of the program depend on the national regulations and the respective country's socio-economic and political context. Nonetheless, the measures¹³ and coverage of contingencies are of universal standards. The social security measures¹⁴ include both contributory or insurance-based schemes like social insurance. Also, it can be non-contributory schemes like universal schemes or targeted social assistance schemes. For instance, countries like Sri Lanka have a free education system, and Nepal, with its universal old age pension, serve as a good example¹⁵. Besides these two main forms of social security, there are other forms of social security, including privately run schemes, self-help, or other measures, such as community-based or mutual schemes.

Though the effectuation of social security measures is different, it plays a pivotal and mutual role in poverty reduction, preventing social exclusion, and promoting social inclusion.¹⁶ For this scholarship, the

¹⁰ General Comment No. 19, Committee On Economic, Social And Cultural Rights, Thirty-ninth session, 5-23 November 2007 <<https://digitallibrary.un.org/record/>>>(accessed on 3/20/2024)

¹¹ Article 5(e) (iv) of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD); Articles 11, para.1(e) and 14, para. 2(c) of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); and Article 26 of the Convention on the Rights of the Child (CRC)

¹² Article XVI of American Declaration of the Rights and Duties of Man; Article 9 of the Additional Protocol to the American Convention on Human Rights in the Area of Economic Social and Cultural Rights (Protocol of San Salvador); Articles 12, 13, and 14 of the European Social Charter (and 1996 revised version)

¹³ General Comment No. 19, Para. 4(a,b) & 5, Committee On Economic, Social And Cultural Rights, Thirty-ninth session, 5-23 November 2007 <<https://digitallibrary.un.org/record/>>> (accessed on 3/20/2024)

¹⁴ Ibid

¹⁵ Ibid, South Asian Regional Trade Council (4)

¹⁶ General Comment No. 19, Para. 3, Committee On Economic, Social And Cultural Rights, Thirty-ninth session, 5-23 November 2007<<https://digitallibrary.un.org/record/>>> (accessed on 3/20/2024)

author has mainly concentrated on contribution-based social security in the Nepalese Context in the following paragraph.

Governing Laws and Mechanisms for Workers' Social Security in Nepal

The genesis of social security in Nepal can be traced back to the enactment of *Sainik Drabhyan Kosh* (Army Provident Fund Act) in 1934 (1991 B.S.).¹⁷ This scheme was regulated with the contribution of a certain percentage from their salary to their provident fund account in *Sainik Drabhyan Kosh* (Army Provident Fund). Similarly, a non-contributory pension scheme was introduced in 1936 A. D.¹⁸ The conception of these schemes opened the insights for the growth and development of other specific legislations to cover private and non-private sector employees. The Labour Act, 1992 and Labour Regulation, 1993 were enacted as a milestone for establishing the social security scheme as a basic right for private sector employees that had incorporated the work injury compensation, medical expenses and leave, welfare fund, provident fund, gratuity, health, and safety measures so on.¹⁹ The momentum gradually took in the development of social security legislation; however, it was in scattered form and also not precise, and it was not clear to the benefits of beneficiaries. In the same way, from the Ninth Five Year National Development Plan (1997-2002 A.D.) has made significant recognition and acceptance of the worth of social security by noting the separate chapter.²⁰

¹⁷ Prof. Pawan Ojha (n3)

¹⁸ Paudel, Dilip Raj, *The Role of Social Security Benefits to Motivate the Nepalese Civil Servants*, (MPhil Thesis, Faculty of Management, Central Department of Public Administration, T.U. 2013)23

¹⁹ Prof. Pawan Ojha & Prajwal Ojha, *Labour Law (Shram Kanun)*, (Part 1, Pairavi Books House Pvt. Ltd, Kathmandu, 2020) 40

²⁰ National Planning Commission, Ninth Five Year National Development Plan (1997-2002 A.D.), <: https://npc.gov.np/images/category/ninth_eng_2.pdf:> (accessed on 21 03 2024)

The previous Constitutions²¹ of Nepal have also enshrined it as a basic human right. The Constitutional legacy is continuing in the existing constitution²² as well.

Overall, Nepal does not have a long history in the specific practice of social security, albeit a member of the United Nations Organization (UNO)²³, ILO²⁴, and also a state party of major international human rights²⁵ and ILO's²⁶ instruments. But it is interesting to note that Nepal is neither a state party to the Social Security (Minimum Standards) Convention, 1952 (No.102) (*hereafter referred to as* ILO Convention No. 102), nor other social security instruments²⁷ endorsed by the ILO.

The gradual growth of the concept and approaches of social security are justified by the quantitative and qualitative development of legislations and mechanisms. At present, the Contribution-Based Social Security Act (*hereafter referred to as* CBSSA), 2017 (2074), Contribution-Based Social Security Regulation (*hereafter referred to as* CBSSR), 2018 (2075), Labour Act, 2017 A.D., Labour Regulation 2018 A.D., Social Security (Management Fund and Operation) Regulation, 2011 (2067), the Social Security Scheme Operation

²¹ Article 26 of the Constitution of the Kingdom of Nepal, 1990 (2047), and Article 18 of the Interim Constitution of Nepal (First Amendment), 2063 Chaitra 30 (April 13, 2007), and Interim Constitution of Nepal (Second Amendment), 2064 Jestha 30 (June 13, 2007) (In the Constitutional history of Nepal, right to social security had recognized as a fundamental right in the Interim Constitution.)

²² Article 43 of the Constitution of Nepal (2015) states, "Right to Social Security: The indigent citizens, incapacitated and helpless citizens, helpless single women, citizens with disabilities, children, citizens who cannot take care themselves and citizens belonging to the tribes on the verge of extinction shall have the right to social security, in accordance with law." Also, Article 34(2) states, "Every labourer shall have the right to appropriate remuneration, facilities, and contributory social security."

²³ Nepal joined the United Nations on 14 December 1955

²⁴ Nepal joined the International Labour Organization in 1966

²⁵ 'Ratification Status for Nepal' <https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=122&Lang=en> (accessed on 21 03 2024)

²⁶ 'Ratification Status for Nepal' <www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:1120:0:0::NO::P11200_COUNTRY_ID:103197> (accessed on 21 03 2024)

²⁷ International Labour Standards on Social Security (5) (accessed on 21 03 2024)

Procedure (*hereafter referred to as SSSOP*), 2018 (2075) are the major governing legal instruments²⁸ of contribution-based social security schemes of Nepal. Among these, the writer has unveiled the intricacies and intersectionality of CBSSA with other related laws and also the governing body, known as the Social Security Fund (*hereafter referred to as SSF*), in the following sections.

Scope and Effectiveness of Contribution-Based Social Security

The Social Security (Management Fund and Operation) Regulations, 2011 (2067) was enacted, and the Social Security Fund was established on 21st March 2011 (7th Chaitra, 2067) as an autonomous government agency responsible for the governance of the workforce that encompasses all sectors of the labour market in the paradigm of social security for all. Nevertheless, the SSF is an affiliate body of the Ministry of Labour, Employment and Social Security (MoLESS). Social Security funds were operated and managed for eight years with a Social Security tax of one per cent.²⁹ The coverage and benefits of beneficiaries were also limited. Neither could it function as envisioned by Article 19 of ICESCR nor meet the minimum standard of ILO Convention No. 102.

For certain years, the SSF was moving in a creeping crawling phase. The CBSSA was enacted in 2017 with provisions for social insurance for all workers mandatory. However, the effectuation of the Act started with the formal sector workers in the first phase³⁰ and other sectors³¹

²⁸ Acts and Rules, <: https://ssf.gov.np/list/act_regulation?page=1>> (accessed on 21 03 2024)

²⁹ Social Security Fund, Introduction, see at <: <https://ssf.gov.np/pages/introduction> ::> (accessed on 23 03 2024)

³⁰ Annual Report, 2023-2024 (2079-2080), see at <: <https://ssf.gov.np/list/annual-reports> ::> For formal sector workers from 17 July 2019 (01 Shrawan 2076); informal sector and self-employed workers 16 August 2023 (31 Shrawan 2080) and for foreign migrant workers from 22 March 2023 (08 Chaitra 2079) (accessed on 03 23 2024)

³¹ Annual Report 2023 – 2024 (2079-2080), see at <: <https://ssf.gov.np/list/annual-reports> ::> Self-employed workers 16 August 2023 (31 Shrawan 2080) and for foreign migrant workers from 22 March 2023 (08 Chaitra 2079) (accessed on 03 23 2024)

(ie. informal sector, self-employed, and foreign migrant workers) in due course. Despite the mandatory requirement for formal sector employers³² to register with the SSF, only 18040 employers have been registered. Meanwhile, 326,220 private companies have been registered at the Office of Company Registrar (OCR).³³ It is revealed that SSF needs to strengthen its competency and mechanisms as well. At present, the Contribution-Based Social Security Regulation, 2018 (2075 B.S.); Labour Act, 2017; Labour Regulation, 2019, and Social Security Scheme Operational Procedures, 2018 (2075) with Second Amendment, 2021 (2077) are major governing instruments by the Social Security Fund (SSF). Though Nepal is not the party to the ILO's Social Security (Minimum Standards) Convention, 1952 (No.102), the CBSA has covered seven³⁴ of the nine contingencies set out in the Convention, which are discussed in the following tables and paragraphs.

Those contingencies have been covered as an 'umbrella' under four schemes and operated by the SSF as below;

Social Security Fund (Schemes and Allocation)³⁵

S. No.	Social Security Schemes	Allocation
1.	Medical Treatment, Health & Maternity Protection Scheme	1%
2.	Accident and Disability Protection Scheme	1.40%
3.	Dependent Family Protection Scheme	0.27%
4.	Old Age Protection Scheme	28.33%
	Total	31%

At a glance, the above-mentioned social security schemes have covered the lifecycle of a human being. But there are certain legal

³² Article 17 of the Contribution-Based Social Security Act, 2017

³³ State of Private Sector in Nepal: Contributions and Constraints, 03 May 2023, FNCCI (44)<:https://fncci.org/uploads/publication/file/Report_StatePSNepal_20230519064735.pdf ::> (accessed on 03 24 2024)

³⁴ Social Security Schemes to be Operated, Article 10 of the Contribution-Based Social Security Act, 2017

³⁵ Section 25 of Social Security Scheme Operating Procedure, 2018 (2075)

gaps, mainly between the Labour Act, 2017, CBSSA, 2017, and also other concerned legislations to a certain extent which are addressed and discussed in the following paragraphs;

Medical Treatment, Health & Maternity Protection Scheme:³⁶

This scheme activates after contributing for at least three consecutive months, and the contributor is provided till three months from discontinuing such contribution. The scheme covers the general medical expenses, including the medical expenses during the pregnancy of the contributor or contributor's wife, hospital admission, surgery, expenses related to the treatment of delivery for up to a period of six weeks, and for treatment of the child up to three months.

However, the scheme does not have an unlimited ceiling for cover-up for medical treatment, health, and maternity protection. It has a financial threshold of up to NRs. 100,000/- in a year for a medical referral case where the contributor is not required to be hospitalized. The amount equivalent to one month's basic salary is provided during the delivery of each child or if a child is aborted after twenty-four weeks of pregnancy. The scheme's benefit is limited to only a single spouse, even though both husband and wife are contributors to the SSF.

Similarly, the scheme does not apply to cosmetic medical treatment such as plastic surgery, dental treatment, or bariatric surgery. Also, the SSF can suspend the scheme during the epidemic if the recommendation is received from the board. This provision seems to demotivate the contributors to become members of SSF. As discussed in subtitle four, the legal gap under this scheme has further demotivated the aspirant contributors. No doubt, the initiative taken by the Government of Nepal (GON) for this scheme is appreciable, but still, more reforms have to be done to motivate

³⁶ Annex 2, Sections 3,4,5,6,7, and 8 of Social Security Scheme Operating Procedure, 2018 (2075)

more contributors from informal as well as self-employed and foreign migrant workers as a formal sector has made it mandatory to register at SSF.

Accident and Disability Protection Scheme³⁷: This scheme has underlined the timeline of a minimum of two years to be entitled to the benefit for the treatment of occupational diseases and other related accidental or disability benefits. But in the case of treatment for the injury caused by an accident, the contributor is entitled to protection from the date of contribution.

The scheme is limited by the financial threshold relating to the accident up to the NRs. 7,00,000/- and other conditional clauses of insurance.³⁸ It is widely understood that the accident's treatment requires prompt treatment. In such issues, the SSSOP and other concerned laws as discussed above are silent about releasing the benefit of the treatment done without informing SSF and in a hospital other than the listed one. Also, the provisions are not clear about the consequences if there is no listed hospital near the accident location. In case of permanent disability caused by an employment-related accident or health hazard, the contributor will provide the amount of sixty percent of the minimum basic salary prescribed by the GON for the specific sector. The recognition of the need for this scheme is appreciated but also necessary to be practical to achieve the proper output.

Dependent Family Protection Scheme³⁹: Mainly, this scheme covers pensions for husbands or wives, scholarships for children, benefits for dependent parents, and expenses relating to funerals. The scheme commences from the date the contributor contributes to the SSF, and it continues until the contributor contributes. Under

³⁷Annex 3, Sections 9, 10, 11, 12 and 13 of Social Security Scheme Operating Procedure, 2018 (2075)

³⁸ Sections 11 (1,b) and 2 of Social Security Scheme Operating Procedure, 2018 (2075)

³⁹ Annex 4, Sections 14, 15, 16, 17, and 18, of the Social Security Scheme Operating Procedure, 2018 (2075)

the category of pension to a spouse⁴⁰, no facilities are available if the spouse of the deceased has an alternative employment opportunity or s/he gets remarried or gets a pension under another scheme. This provision is not clear in the case of both husband and wife registered in SSF. Also, the SSSOP is missing the opt clause in the context that if the salary is low in the alternative employment as comparing to the amount of pension obtained from SSF. Besides these, other clauses have enhanced the security of life for working-class people.

Old Age Protection Scheme⁴¹: The SSSOP affirms that the contributor should be at the age of sixty years and must have contributed a minimum of one hundred and eighty months to be eligible to receive the old age protection scheme.⁴² In addition, the contributor can either opt for the Pension scheme or get a lumpsum amount (i.e. contribution amount plus interest plus returns on investment done by SSF) for those contributors reaching sixty years but have not completed the contribution for one hundred and eighty months. The provision of Pensions to spouses⁴³ is more debatable. It mentions that if the contributor dies after funding Pension for less than one hundred and eighty months, then his/her spouse will get a fifty per cent pension amount till his/her death. This is applicable only in the case if s/he does not have another employment opportunity or is not receiving any pension under any other scheme. The provision is unclear with the consequences if both are registered under SSF. The contributions made by both on SSF cannot be underestimated and thus, facilities should not be avoided. Also, SSSOP is silent in the case of not having a spouse but having a child/children below eighteen years.

Moreover, under the retirement scheme, the contributor or the

⁴⁰ Section 15(2) of the Social Security Scheme Operating Procedure, 2018 (2075)

⁴¹ Annex 5, Sections 19,20,21,22,23, and 24, of the Social Security Scheme Operating Procedure, 2018 (2075)

⁴² Section 22 of the Social Security Scheme Operating Procedure, 2018 (2075)

⁴³ Section 24 (c) of the Social Security Scheme Operating Procedure, 2018 (2075)

beneficiary receives benefits in lumpsum from the total amount contributed in the condition of the contributor’s retirement or the termination of employment or upon the contributor’s death.

Overall, the above-discussed protection scheme replicates the social security protection mechanism that has covered the chain of the human life system to some extent. Still, there is a scope for reformation to encourage contributors from all sectors of the market economy/labour market to register at SSF, which gradually supports reducing the poverty gap and promotes national prosperity. The following section on challenges and a way forward has outlined the hurdles and way out, too.

For the coverage of the protection scheme, the Social Security Fund is operated and managed by collecting contributions from employers⁴⁴ and employees⁴⁵ as below;

Contribution to the Fund⁴⁶

S.No.	Contribution Heading	Employer (Contribution Rate i.e. from basic salary)	Employee	Total Rate
1.	Provident Fund	10%	10%	31% of basic salary. ⁴⁷
2.	Social Security Tax	-	1%	
3.	Gratuity	8.33%	-	
4.	Medical Insurance	1.67%	-	
	Total	20%	11%	

The financial contribution from both the employer and employee is an admirable approach for sustainability and also promotes responsible conduct from business entities as well as developing confidence and ownership for empowering the future of the worker. Also, in the

⁴⁴ Section 25 of the Social Security Scheme Operating Procedure, 2018 (2075)

⁴⁵ *ibid*

⁴⁶ Distribution of Contribution, Section 25 of the Social Security Scheme Operating Procedure, 2018 (2075)

⁴⁷ *ibid*

present labour market, including other needs as enshrined in several legal instruments, the social security protection scheme functions as a motivational means for all employees irrespective of the job nature.

Challenges and Way Forward

The contribution-based social security protection approach aims to create a sustainable system by tying entitlements to one's financial input. Because of various reasons, SSF is facing several challenges on contributions, such as ensuring consistent funding from contributors, issues of compliance and enforcement, competent human resources on digitalization of indexing to changing demographics of workers and managing economic fluctuations that impact contributions and payouts. Above all, government instability and regulatory uncertainties are also challenging the effectiveness of administration and sustainability of contribution-based social security systems.

Besides these fundamental challenges, there are certain legal issues in the legislation that are unable to be properly addressed. Section 13 of the Act affirmed for not getting double social security benefits.⁴⁸ However, lacking a proper national digitalization system of the social security system, it is not effectuated as of its mission. The root cause is that it does not have a central database indexing system. Also, Section 14(3) has opened the door to adopting a 'unified system'⁴⁹ for those who are already associated with the Employment Provident Fund (EPF) (*Karmachari Sanchaya Kosh*) or the Citizens' Investment Fund (*Nagarik Lagani Kosh*), but, with the fragmented laws of social security schemes, neither the policy nor the mechanism has been initiated yet.

In the same way, the facilities can be availed after the continuous contribution of funds to SSF for three Months and cover up to 3 Months after discontinuation of the contribution.⁵⁰ In this context, the

⁴⁸ Section 13 of the Social Security Act, 2018

⁴⁹ Ibid Section 14(3)

⁵⁰ Section 4(1) of the Social Security Scheme Operating Procedure, 2018 (2075)

Act is silent on covering the gap in expenses if the employee needs medical treatment within those three months. Regarding the coverage of occupational diseases⁵¹, the employee will be compensated only after at least two years of contribution. The employer is not liable to compensate the employee if s/he is contributing to SSF⁵², thus, there is a vacuum in bearing the liability before the end of two years of contributions for the medical treatment relating to occupational diseases. Also, the fund will suspend the benefits of contributors in case of an epidemic⁵³ and extreme economic disorder. The Contribution-based social security cannot be called ‘security for the future’ if it cannot serve when it is most needed.

More importantly, neither of the instruments has mentioned the SSF for productive investment and reutilizing the surplus fund for its economic strength and longer sustenance. Rather, focusing on the dissolution of the SSF in the case of economic crisis with the recommendation of the committee.⁵⁴

Despite considerable challenges, the researcher found that the government of Nepal cannot deny the application and continuance of the social security protection system, which is needed in Nepal. It has supported a reduction in the poverty gap and also empowered the future of workers. It has driven society towards achieving social justice by addressing the intricacies of dynamic economics, such as formal sector, informal sector, self-employed, and foreign migrant workers.

However, certain reformative measures are required for its sustainability and effective outcome in the labour market. The several legislations under the same basket have created confusion and are unproductive too. So, an ‘umbrella Act’ and ‘one window policy’ or a ‘unified system’ covering the different policies and procedural aspects regulating the

⁵¹ Section 10(3) of the Social Security Scheme Operating Procedure, 2018 (2075)

⁵² Section 82(2) of the Labour Act, 2017

⁵³ Section 8 © of the Social Security Scheme Operating Procedure, 2018 (2075). Also, Rule 10 (1) (c) of Contribution-Based Social Security Regulations, 2018 (2075)

⁵⁴ Section 63 of the Contribution-Based Social Security Act, 2017 (2074). Also, see Section 8(c) of the Social Security Scheme Operating Procedure, 2018 (2075)

delivery of social security can encourage and motivate the employer and self/employee to be members of SSF. For instance, India has codified nine different legislations in a Code on Social Security, 2020⁵⁵. It is a good reference for a country that has scattered legislation for a purpose. Also, enhancing social security ‘literacy’ in all sectors of the labour market is a must. Equally important is focusing on investment and fund management and strengthening operating standard procedures. The overlap and legal gap in the Acts, Regulations, and Operating Procedures are also necessary to short out for overcoming the confusion.

The contribution-based social security protection mechanisms and SSF have come up with a ‘master plan’ for all economically active individuals to secure and uplift themselves and their dependents’ life; nonetheless, a ‘proper action plan’ is still required to ensure the integrated forms of social protection.

Conclusion

The concept of social security is evolving and is attributed to its dynamic nature. As of the ICESCR, the right to social security is the universal protection for all and is one of the redistributive characteristics. The individual contributes the skill, energy, and his/her prime productive time of life for national economic growth and prosperity. In return, the state is responsible for maintaining social assistance, social insurance, and social protection to all for addressing the contingencies in the life cycle of a human being. This notion has encompassed mainly the social welfare approach and has become a huge challenge for developing countries like Nepal, having a \$1,399 per capita Gross Domestic Product (GDP). The allowances are for limited schemes like old age allowance, widow allowance, and allowance for differently abled people. It operates as a social protection and assistance mechanism using a need-based approach. Besides these, the employment provident fund and citizens’ investment fund are also in function, which cover only the government services and formal sector economy to some extent.

⁵⁵ The Code on Social Security, 2020, No.36 << https://labour.gov.in/sites/default/files/ss_code_gazette.pdf>>

At present, the economic market of workforces is more comprehensive, covering the formal sector, informal sector, self-employed, and foreign migrant workers. The ILO Convention No.102 has set the quantitative standards of minimum protection targeted for social progress. Above all, it has established the fundamental principle of social security in the international human rights law that covers the right to social security for contributory and non-contributory to the social security fund, and also in the labour jurisprudence.

Nepal is neither a state party to ILO Convention No. 102 nor other social security instruments endorsed by ILO. However, it is interesting to note that Nepal has compliance with seven contingencies out of nine of ILO Convention No. 102 in the CBSSA, 2017. The reason is that Nepal is an active member of ILO and a state party to the ICESCR which obliges state responsibility for ensuring social security to all. Nonetheless, it is strongly suggested to ratify the ILO Convention No.12 to align the Nepalese social security protection legislation with international standards, which leads to social cohesion and, overall, enhances Nepal's social protection system. Also, this move supports Sustainable Development Goals and corroborates Nepal's commitment to human rights and labour standards.

Including all, Nepal is in the infant stage of the growth of legislation and governing mechanisms of social security for all. The CBSSA, 2017, is the specific legislation, and the SSF is the autonomous governing agency that operates and manages the contribution-based social security program. Due to the lack of proper awareness of its benefits to the beneficiaries, not having a proper digital system for indexing the workers, lengthy bureaucratic procedure either for registration or to receive a return from it or for loan and other due courses for applying to receive benefits as prescribed by the legislation are fundamental challenges, that are hindering to meet the target for coverage to all workers from every sector. Whatever the technical, political, legal, financial, and administrative challenges

bearing by the SSF, its continued efforts and enhancing governance are leading the path for acknowledging the value of work and the value of the life of workers and their dependents through which employee registration and stakeholders' involvement is increasing every year. The reduction in the poverty gap from twenty-five per cent in 2011 to just over 20 per cent in 2023 is one of the positive outputs of a contribution-based social security program, too.

In a nutshell, the CBSSA, 2017, and SSF in Nepal represent a significant step towards providing social protection to workers and their dependent families, contributing to broader social and economic development goals. Despite having certain challenges, the social security protection system in Nepal has covered a wider scope, and its effectiveness has dependent on factors such as implementation, enforcement, and coverage to informal economy sectors' workers, which have indicated to enhance its impact on improving the living standard of workers and also establishing this system as a carter of an egalitarian and socialist-oriented economy.