



THE KEY TO A SUCCESSFUL EMPLOYMENT INJURY INSURANCE SYSTEM

ITCILO E-CAMPUS / ONLINE KNOWLEDGE

Module 1

Introduction to the Main Concepts of Employment Injury Protection



International Labour Organization



International Training Centre

Overview

This module presents the rationale of employment injury protection and its importance for sound and peaceful industrial relations. The meaning of employment injury protection, what it takes and concepts such as employment injury protection adequacy, affordability, responsibility and implementation are briefly explained. A brief overview of how it is financed, the level of benefits covered, and the administration required is presented.

Learning Outcomes

By the end of Module 1, participants will:

- Acquire a basic understanding of what employment injury protection is about and what it takes to ensure effective protection.
- Acquire a basic understanding how an adequate employment injury protection can be provided at a reasonable and affordable cost.
- Acquire introductory knowledge of key notions such as employment injury protection adequacy, affordability, benefits, responsibility and implementation.

Legend

If you find this icon , you are facing an **EXTERNAL** link

In order not to lose the current page, it can be useful to open a web page in a new tab. By default, the rule is that an external link (to another site) opens in a new tab, and an internal link (to another page on the site) opens in the same tab. But this is not always the case, and it is also sometimes useful to want to open several pages of the same site at the same time, in several tabs.

If you want to open a link in a new tab, **right click on the link and select “Open in new tab”**. You can also use the keyboard shortcut **“Ctrl”+left mouse click** on the link.

If you find one of these icons    , you are facing an **INTERNAL** link



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Some data

- 340 million occupational accidents with 160 million victims or work-related illnesses annually
- 2.3 million women and men around the world die from work-related accidents or diseases
- 6,000 deaths every single day



Some further data

- 39.4 per cent of the labour force is covered by law for employment injury (either through social insurance or employer liability provisions)
- However, actual access to employment injury protection even lower due to lack of enforcement of legislation
- Urgent needs to enhance working conditions in respect of OSH
- Urgent needs to increase coverage

What does adequate employment injury protection mean?

- Workers have the right to a safe and healthy workplace. If they get injured while at work, they are entitled to medical care and measures to cover for their loss of earning. They should have access to rehabilitation and return to work measures
- Employment injury protection should be provided to all workers at a reasonable and affordable cost
- Target: no accident and no disease
- Workplaces should be designed and organized to eliminate risk – or reduce it to an acceptable level - of occupational accident and disease
- S.D.G. 1.3.1 (poverty and social protection floors) calls for employment injury protection

What does adequate employment injury protection mean?

When an accident or a disease occurs, well trained procedures are set in motion to:

- Report the injury (accident or disease)
- Provide rapid first aid to the injured worker
- Secure the workplace for other workers
- Improve risk control

The injured worker has free of charge and timely access to:

- Health care
- Medical rehabilitation
- Social rehabilitation and return to work services
- Adequate compensation for loss of earning (rapidly and fairly).

If the injured worker dies:

- His/her dependants receive periodic payments replacing lost wages

Employment injury benefits are further discussed in Module 5.

CASE STUDY: what does it take to have effective employment injury protection?

Dreamland is a prosperous country that has been enjoying economic and social stability for many years.

The unemployment rate and inflation rate are low and are expected to remain stable. The number of employment injuries including occupational diseases is low.

When an accident or a disease occurs, well trained procedures are set in motion to provide rapid first aid to the injured worker, to secure the workplace for other workers, and to improve the risk control; the injured worker has free of charge and timely access to health care, medical rehabilitation, social rehabilitation and return to work services, and adequate compensation (rapidly and fairly).

Appropriate training is provided when a new machine or a new method is set in application.

What does it take to provide employment injury protection?

There are regulations making sure all machines have safety device.

Employer and workers are involved in the collection of information on any event or observation that can affect the safety and health in the workplace.

There are procedures to share and to analyse the collected data at different levels (work unit, Employment Injury insurance scheme, national labour research institute).

Employers, workers and the scheme's inspectors take active part in the prevention program.

Return to work program intervene early in the process. Injured workers receive personalized service. The scheme agent works with the employer and the worker on a plan of rehabilitation for the return of the worker to work.

All workers are covered under the EIIIS scheme regardless of the nature of their employment.

What can be considered reasonable and affordable cost?

- Reasonable cost is achieved when:
 - Adequate employment injury protection can be delivered effectively and efficiently
 - There exists a mechanism that promotes best service at lowest cost from providers
 - As part of production cost, it does not represent an excessive financial burden that would jeopardize the business plan
 - See Module 7 for further discussions on the costs and financing of employment injury insurance schemes.

Who are responsible for employment injury protection?

It is largely acknowledged that:

- Employers have the responsibility to support the consequences of employment injuries

According to **Occupational Risk Theory**:

- Industrial accidents are inevitable under the capitalism system
- Industrial accidents should be compensated regardless of who is responsible for the accidents
- The expenditure for industrial accidents should be considered as a part of production cost

In what cases a worker is entitled to employment injury benefits under an EIS?

- If a work-related injury (accident or disease) occurs: workers should be covered with no need to establish fault
- The worker should be entitled to the benefits of the program even if his employer does not respect his obligations, for example if the worker is not registered or the employer has not paid due contribution.

What are the employment injury benefits that the worker receives?

- Injured workers receive all medical services they need, including hospitalisation, surgery, medical treatments, drugs and appliances
- They receive periodic cash benefits during temporary disablement, beginning after the waiting period, if any, and up to the recovery or to the maximum payment period.
- The institution administering the scheme:
 - Pays directly for the services; or
 - Reimburses the workers if they paid first (i.e. drugs).
- The amount of benefits equals the percentage of the worker's average wage for the months preceding the injury;
 - In ILO Conventions = 60%
 - In many countries with employment injury insurance schemes = 70-75%
- The wages are considered up to the “maximum of assessable earnings”, fixed to cover the full wages for a large majority of workers (in most countries 85-90% of workers)

What are the employment injury benefits that the worker receives?

- At the end of the period of temporary disablement, the worker with permanent disablement will continue to receive periodic cash benefits for the whole life or up to presumed retirement age with coordination mechanism with the pension system
- Total permanent disablement benefits are paid at the same rate as temporary benefits, and partial permanent disablement benefits are the product of that temporary benefit by the degree of disablement
- When the degree of disablement is relatively small (i.e. $\geq 20\%$), the periodical payments can be converted into a lump sum representing the present value of the benefits, if it is in the interest of the worker
- The amount of benefits is adjusted from time to time, often yearly, to protect against increase in cost of living

What are the employment injury benefits that the worker receives?

The worker suffering a permanent disablement such that he cannot reintegrate his work is entitled to rehabilitation benefits, including physical and vocational rehabilitation;

In case of death due to an employment injury, survivors' benefits:

- Are paid to dependants;
- Are calculated as a percentage of the worker's average wage for the months preceding the injury;
- The percentage depends on the structure of the family (ILO Conventions: the percentage allowed to a widow or widower with two young children is > than 50%);
- Are paid to a widow or widower for life or until a remarriage while those to children are paid up to majority or later if attending schools;
- In certain EII schemes: part of survivors' benefits is paid to other dependants mainly supported by the worker before his death;
- Funeral benefit to cover the expenses of an average funeral arrangement.

What are the objectives of the employment injury benefits received by the injured worker?

The main objective of these benefits is to help workers so that they will be able to do their current activities again and to develop, with learning and training among others, their ability to do a new job

How can employment injury protection be provided to workers?

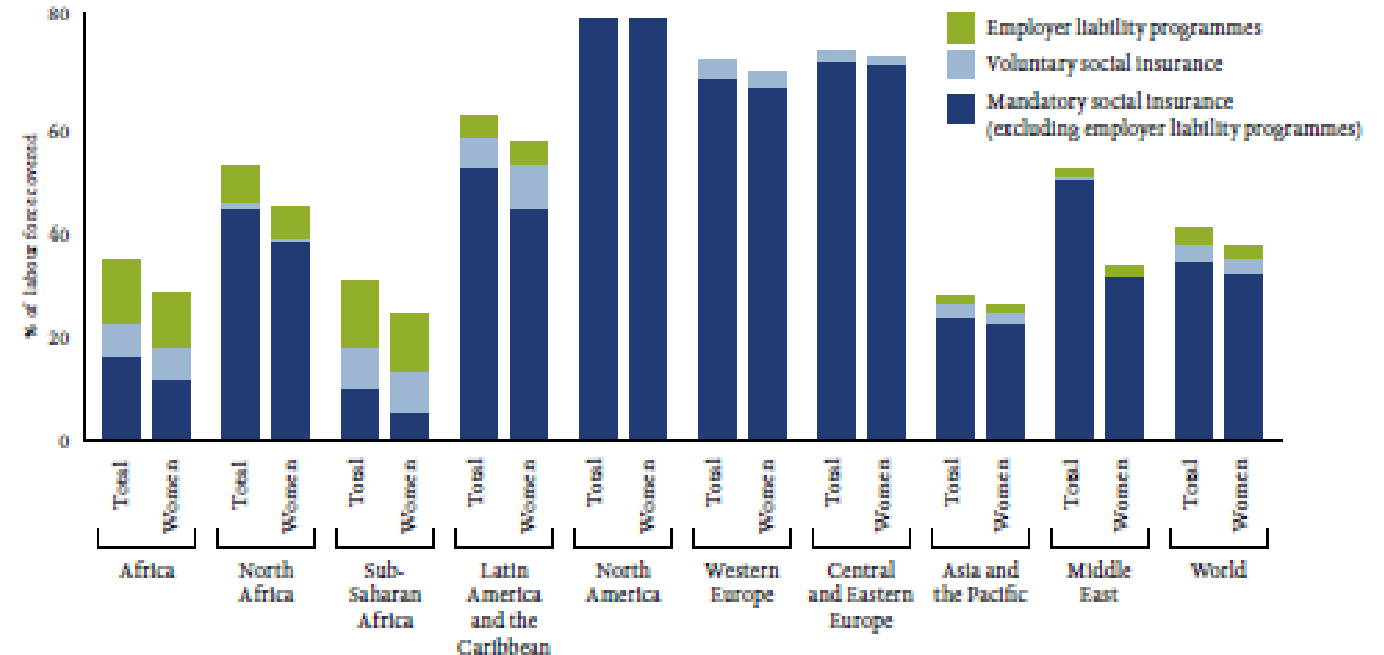
- The way in which employment injury protection is provided to workers:
 - Reflects each jurisdiction's historical, institutional, cultural and financial circumstances
 - It is prescribed by legislation (see module 9)
 - The legislation's provisions represent a consensus or compromise reached further to a national dialogue (on social dialogue see module 4)

Main characteristics of the EIS scheme

- Mandatory social insurance is the most prevalent option of providing employment injury protection in comparison to voluntary insurance and employer liability programs;

Employment injury protection: Regional estimates of legal coverage

- Various characteristics from a country to another, depending on their socio-economic context and the rate of development of their policies in social security.
- They all have an important number of points in common.



Notes: Regional and global estimates weighted by the labour force 2012 (ILO KILM, 8th ed.). For individual country information, see Annex IV, table B.4.

Sources: ILO Social Protection Department, based on SSA and ISSA, 2012; SSA and ISSA, 2013a; SSA and ISSA, 2013b; SSA and ISSA, 2014; ILO, LABORSTA (2014 data); ILO KILM (8th ed.); national legislative texts; national statistical data for estimates of legal coverage.

Link: <http://www.social-protection.org/gimi/gess/ResourceDownload.action?resource.researchid=37025>.

How can employment injury protection be provided to workers?

Employment injury protection are provided through:

Employers' Liability (EL) Systems

- Employers can assume individually their responsibility and compensate directly the workers in case of injury
- Coverage and benefits are defined by law and/or settled in court.

Private Insurance Systems (complements EL systems)

- Employers can choose or are forced by law to subscribe an insurance contract in order to transfer the risk of high cost and volatility of claims to an insurance company
- Coverage and benefits are defined by law and/or settled in court.

How can employment injury protection be provided to workers?

Employment Injury Insurance Scheme (EIS)

- Employers collectively finance a workers' compensation scheme against the risk of work injuries and occupational diseases under the no-fault principle. Employers' participation is mandatory
- The scheme can be national or sector distinct

No-fault principle:

- Employers and workers agree to a trade-off whereby employers are free from individual compensation responsibilities and court cases for compensation for work-related injuries or diseases
- Employees abandon the right to sue their employer when an employment injury case occurs, but are automatically entitled to benefits of the compensation scheme

For a comparison between EL system and EIS see module 2

Zoom in on the no-fault principle

- The no-fault principle foresees the following provisions:

EMPLOYERS

- Take on the collective responsibility to finance a workers' compensation plan against the risk of work injury or occupational disease
- In return they cannot be individually sued by the worker to obtain compensation for the injury or the disease

WORKERS

- Abandon the right to sue their employer when an employment injury occurs
- But they are entitled to full benefits of the workers' compensation plan with no need to prove the responsibility of anybody

What does it take to provide employment injury protection under the option of an EIS?

The implementation of an EIS scheme unfolds in three phases:

1. Development of a sound legal framework for the EIS
 2. Design of a sustainable, affordable and self-financed EIS
 3. Building a competent administrative capacity in view of the administrative facilities in charge of the scheme's administration.
- The implementation process must:
 - Respect a logical sequence; and
 - Involve stakeholders mainly in the first two phases and technical experts in the third phase

For more information on the building of competent administrative capacity see module 10.

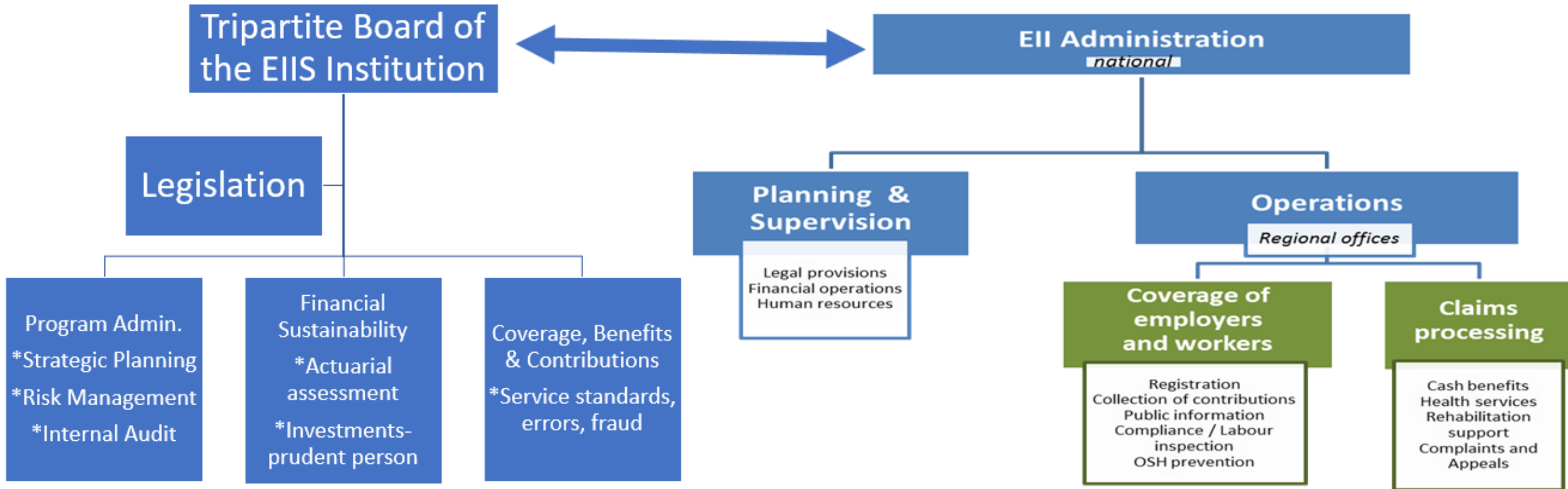
How is an EIS usually administered and by whom?

- In all jurisdictions:
 - Employers have the obligation to maintain a safe working environment
 - Officers of the public institution have great powers of inquiry to verify statements made by the employers and the workers, and to inspect worksites to ensure that practices of the companies are in accordance with safety standards fixed by regulations
 - The responsible public institution is usually under the authority of the Ministry of Labour
 - The direction of the responsible public institution is supervised by a governing board composed, in accordance with the ILO's conventions of members representing the government, of the workers and the employers
 - This tripartite board is responsible to adopt the strategic planning of the institution, its financial statements, its policies relative to financing, compensation, prevention and to take agreements with other institutions about the delivery of services to workers and employers

How is an EIS usually administered and by whom?

- In some countries, it is a department of an institution with wider responsibilities in the social security area, such as sickness, maternity and unemployment
- This specific public body:
 - Manages the operations regarding financing (registration of employers, collection of their premiums, investment of the assets in the reserve...)
 - Manages the operations regarding compensation (processing the claims from workers or their dependants, payment of cash benefits and health care services, delivery of rehabilitation services, support to reintegrate the workforce...)
 - In many countries, it is also mandated to promote various activities to prevent work injuries and occupational diseases, taking advantage of the data in its possession to identify priorities of intervention

Typical institutional structure of an EIS



The structure assumes that occupational safety and health (OSH) and Labour Inspection are administered by the same institution as recommended by ILO in similar situations.

Who contributes to the financing of the scheme?

- The employers are usually the only contributors
- Sometimes the government pays a small part of the costs, for example to:
 - Cover a part of administrative expenses at the start of the program; or
 - Cover the expenses for inspection services
- Workers normally do not contribute
- The coverage is mandatory for all employers belonging to a category or an economic activity determined by the legislation



Why social assistance system that is tax-financed is not suitable for work injury?

- Given the EIS objective of providing a replacement of income based on the workers' previous income level, its financing by contributions based on income is a more responsive financing system.
- In a tax-based financing system, the loose link between revenue (tax-based) and the expenses (earnings-based) would not provide self-adjustment.
- Some countries partially finance EI system with their taxes through a tax-based universal health scheme that covers occupational medical care (the case of the UK) or through government subsidy to EIS fund. For example:
 - Israel government pays 0.03 percent of insured and self-employed person's earnings;
 - China government provides subsidy as needed;
 - Guatemala government pays 1.5 percent of gross payroll.

How is the contribution determined?

- The employers' contribution:
 - Is calculated as a percentage of their workers' wages
 - Is paid through periodic payments during the year, usually monthly payments;
 - Is determined yearly
 - Depends on the funding method.
 - One of the most common is **the pay-as-you go method** for short-term benefits (temporary incapacity and medical care) and **terminal funding** for periodic payments to permanently disabled workers and survivors of workers deceased from an employment injury.
- The contribution rate:
 - May depend or not on the risk that employment injuries occur in the said company
 - Must cover payments for short-term benefits paid during the year and the present value of periodic payments awarded in the year.

How is the contribution determined?

There are various methods to determine the contribution rate of each employer:

1. Some countries charge a fixed rate to each employer, whatever may be its economic activity, its size or its experience of injuries → objective: solidarity between companies
2. In most countries, the contribution rate of the employer varies depending on the risk associated to the economic activities concerned
 - Application of insurance principles aiming at respecting fairness between employers of different economic activities
3. Many countries add an adjustment factor to take into account the employer's experience of injuries
 - Objective: encouraging employers in preventing accidents and diseases in order to maintain a good record and to obtain rate discounts.

For further information on this topic, see Module 7

Additional Resources

Additional readings

- 🌐 See the article [A Brief History of Workers' Compensation](#)
- 🌐 [Social Security in Pakistan, Social Security Programs Throughout the World: Asia and the Pacific, 2018](#)
- 🌐 [The Punjab Employee Social Security Act, 2018](#)
- 🌐 [The Sindh Employees' Social Security Act, 2018](#)
- 🌐 [The Workers' Compensation Act, 1923](#)



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Pop Ups - Module 1



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✘ Some data

The ILO estimates that some 2.3 million women and men around the world succumb to work-related accidents or diseases every year; this corresponds to over 6,000 deaths every single day. Worldwide, there are around 340 million occupational accidents and 160 million victims of work-related illnesses annually. The ILO updates these estimates at intervals, and the updates indicate an increase of accidents and ill health.

Some of the major findings in the ILO's latest statistical data on occupational accidents and diseases, and work-related deaths on a world-wide level include the following:

- Diseases related to work cause the most deaths among workers. Hazardous substances alone are estimated to cause 651,279 deaths per year.
- The construction industry has a disproportionately high rate of recorded accidents.
- Younger and older workers are particularly vulnerable. The ageing population in developed countries means that an increasing number of older persons are working and need special consideration.



Some further data

While the reporting of work-related injuries is measured or estimated in most countries, there is nearly no statistical measurement in place to monitor the proportion of injured workers who are effectively compensated. This is an effort in high need of attention in view of SDG 1.3 calling for the coverage of employed workers in case of work injury. Some middle-income countries have extended coverage. For example, the Social Security Organization (SOCSO) of Malaysia is gradually extending its coverage to almost half the labour force, estimated at 43.7 per cent in 2014 and 44.0 per cent in 2015. Many developed countries have reached a high level of effective coverage; for example, in Spain, the effective coverage rate was estimated at around 76 per cent of the labour force in 2016.

The low coverage of employment injury compensation in many low- and middle-income countries points to an urgent need to enhance working conditions in respect of occupational safety and health, as well as improving employment injury coverage for all workers, including those in the informal economy.

The Sustainable Development Goal (SDG) on poverty and social protection floors, namely indicator 1.3.1, foresees that countries must ensure the right of employed workers to social protection coverage in case of employment injury is achieved by 2030. There is a long way before achieving this goal.



Why social assistance system that is tax-financed is not suitable for work injury?

Employment injury social security protects people from falling into poverty while social assistance aims at protecting people who are in living in poverty. EIS is often contributory while social assistance programs are often tax-financed.

EIS financing from tax revenue would not be coherent with EIS compensation that is based on workers' income. Social assistance programs aim at providing beneficiaries with a minimum livelihood to help them lift above poverty line. Both social insurance and social assistance programs are needed to build comprehensive social protection.