

Evolution and Development of the Concept of Social Security in Organized Sector in India

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Abstract: At the dawn of industrialization “Labour”¹ as a concept was considered a mere factor of production along with land and capital. No thoughts were devoted legally or socially for the protection of the workman who contributed his manual, mental, work for production. History is witness to the fact that the first ever “demand” that was put forth by the working community was “just and humane” condition of work and not wages.

Labours, all over the country plays a considerable role in a planned economy as it is recognised as an important source of production, their protection against risks of want, disease, ignorance, squalor and idleness are utmost important. Due to Industrialization, Urbanization and Privatization it lost its significance. The workers’ rights were exploited thus social security was utmost in demand to protect their interest. It is based on the social justice, social equity and human dignity. Legislation, therefore, becomes an instrument of social and economic justice and attempts to secure it. The right of the workers is also protected under the constitution of India and other labour legislation.

Employee’s Compensation Act 1923 is completely employers’ liability where the workers contribution is none and at state level Compensation Commissioners are appointed to execute the Act².

The ESI 1948 is a social insurance and in this both medical and cash benefits are provided by corporation³ to the workers. EPF⁴ and Gratuity are paramount Social security legislation protecting aged people. The Maternity Benefit Act 1961 is especially designed to protect the interest of the women workers. It provides them security at the time of pregnancy for the workers it provides them security at the time of pregnancy and delivery⁵. Social security is a subject of concurrent list so the Central Government constituted enactments for the workers and the state government bears the responsibility of their effective enforcement through Labour Department.

India, being a welfare state, has taken upon itself the responsibilities of extending various benefits of Social security and social Assistance to its citizens. The social security legislation in India derives their strength and spirit from the Directive Principles of the State Policy as contained in the Constitution of India. The goal of a welfare state can be achieved only by improving the living, working conditions and guarding people against the uncertainties of the future. These measures are also important for every industrialization plan, because these measures not only enable workers to become more efficient, but also reduce industrial disputes. The man-days lost on account of sickness and disability also constitute a heavy drain on the slender resources of the worker as well as on the industrial output of the country. Lack of social security hinders production and prevents the formation of a stable and efficient Labour force. Social security is, therefore, not a liability, but a wise investment, which yields good dividends in the long run. The social security provides protection to working class against contingencies like retirement, illness, maternity, aging, death, disablement and similar conditions. There are numerous legislations that ensure social security that have been active since 1880 during British era.

Feeling of security enhances employee’s efforts to develop them for future work. In the above context this paper attempts to analyze the evolution and development of the concept of “social security” in Organized sector in India.

Keywords: Social security, organized sector, employees

Introduction

The idea of social security has developed over some undefined time frame. In the crude social orders it was humanity’s battle against weakness to shield him from the caprices of nature or finding the fundamental necessities of day to day life. In ancient age its Joint family system that dealt with the social security needs. With the rapid industrialization, there was a separation of family

¹ “labour” as a concept means expenditure of physical, mental efforts contributing for providing goods and services in an economy.” Cambridge Dictionary, Cambridge University Press, 1995

² Recent amendment in the Act has replaced the ‘workmen’ word with ‘employee’ to make it gender neutral.

³ the Employees’ State Insurance Corporation (ESIC)

⁴ The EPF Act is handled by the Employees’ Provident Fund Organization (EPFO) which is an autonomous body.

⁵ Twelve weeks leave, medical bonus, one month leave after miscarriage etc. advantages are given through the Act. The Maternity Benefit Act and Gratuity Acts are handled at departmental level and factory inspectors check the proper implementation of these Acts.

setup destructing the customary system urging the need of social security. In this way, the idea of social security continued developing and enlarging as there is no commonly accepted definition of the term.⁶

Social security is essential for the individual's development and society. It is regarded as one of the essential human rights⁷. Protection of those rights will help to accomplish different formative objectives of the nation.⁸ The notion of social security is extremely old, however the terms, the laws and foundations worked around it with the end goal to standardize the idea. Social security conveys means to deals with the emergencies situation and such security is to be provided by the state⁹ yet it additionally reaches out to security by state in the event of possibilities.

The expression "Social Security" was first authoritatively utilized in the title of the unified state's enactment the Social Security Act of 1935-despite the fact that this Act initiated programmes to meet the danger of old age, death, disability and jobless as it were. It showed up again in an Act passed in New Zealand in 1938 which united various existing and new social security benefits. It was in 1941 in the wartime documents known as the Atlantic Charter¹⁰, of the eight points of the Atlantic Charter, one directly bear on Labour Standards, Economic Advancement, and Social Security. As per the fifth clause of the Charter the two prerequisite necessary to bring cooperation amongst the countries working in the economic field are to enhance the labour norms and to work toward achieving social security. The ILO was quick to embrace the term, awed by its incentive as a straightforward and capturing articulation of one of the most profound and most widespread desires of individuals all around the world.¹¹

In the Indian context, various authorities characterize the concept of social security distinctively and henceforth there is no commonly accepted definition of the term. As of late some new ideas such as safety nets, social protection and social funds have developed. Extensively, all these concepts are a piece of all-pervasive term social security, which comprises mainly two elements: security related to jobs or work in general and income security.¹² In perspective of this, a broad idea of social security in India incorporates, the sum of all government regulations and provisions that aim at upgrading the general population's living conditions, including enactment/acts/laws, regulation, and planning in the fields of old age, wage, unemployment, health care, and also income security measures such as food security, employment, education and health, housing, social insurance, and social assistance.

Social security: A Definition

Social security has procured a more extensive understanding in few countries than in others. Essentially it may be interpreted as meaning which protect the interest of the individual through proper policy and effective welfare measure that help the people to overcome their economic and social distress¹³.

Definition by Sir William Beveridge

In 1942, *Sir William Beveridge* headed a committee that reviewed the national schemes of social insurance in Great Britain amid the post war period¹⁴

Further his report is viewed as the foundation stone of the present social security system as he has proposed that social security system would play a role in reducing inequality and preventing poverty if social security is intended to fulfill the need to annul need by guaranteeing that every citizen willing to serve as indicates by his power has consistently a pay adequate to meet his obligations.¹⁵

⁶ Government of India, *Report of the Working Group on Social Security for the Eleventh Five Year Plan 17 (2007-2012)* Planning Commission.

⁷ Though not one of the Constitutional fundamental available at Rights <https://pingpdf.com/pdf-employee-and-employment-injury-under-the-employees-statei.html>

⁸ Government of India, *Report of the working group on social security for Twelfth Five year plan (2012-2017)* Planning Commission

⁹ Contingencies include the following: (a) unemployment, (b) sickness, (c) maternity, (d) invalidity, (e) old age, (f) death, (g) emergency expenses etc. See *Report of National Commission on Labour II*, Chapter 8, para 54

¹⁰ This Atlantic Charter was a joint declaration released by U.S President Franklin D. Roosevelt and British Prime Minister Winston Churchill on August 14, 1941 following a meeting of the two heads of state in Newfoundland. The Atlantic charter provided a broad statement of U.S and British war aims. It is not a treaty between the two powers. Nor it a final and formal expression of peace aims. It was only an affirmation, as the document declared, "Of certain common principles in the national policies of their respective countries on which they based their hopes for a better future for the world."

¹¹ ILO, *Introduction to Social Security*, International Office, Geneva Pg. 3 Para 2

¹² Government of India, *Working Group Paper on Social Security (Planning commission, New Delhi, 2007)*.

¹³ Economic and social distress would be caused by substantial reduction of earnings due to sickness, maternity, employment injury, unemployment, invalidity, old age and death; the provision of medical care; and the provision of subsidies for families with children. see *Supra*.

¹⁴ In Beveridge Report social security is characterized as the security of an income when the individual earning capacity is interrupted by unemployment either by sickness, accident, retirement, disability or death. Available at *Sir William Beveridge, Report of social insurance and Allied Service*, Beveridge.

¹⁵ Dr. S.C. Srivastava, *Treatise on Social Security and Labour Law*, 5 (Lucknow Eastern Book Company, 1985).

Keeping into consideration of the Beveridge Social security can be viewed as providing adequate safeguards in terms of income at the time of certain contingencies' in life owing to happening of an event in the life of an individual. Under such circumstances his income might get reduced thus the state should ensure security to such an individual and help him to come out of such a situation.

ILO defines social security as follows:

“The security that society outfits, through appropriate organization, against specific risks, to which individual, are uncovered. These risks are essentially contingencies against which the individuals cannot afford by him”.¹⁶ These risks are being sickness, maternity, invalidity, old age and death. It is the qualities of these contingencies that they imperil the ability of the working man to support himself and his dependents in health and decency. The society owes duty towards the remaining members in case they face certain event that is detrimental to their life.¹⁷

As per aforementioned definition it established the existence of an organization which endeavor towards social security. Nonetheless the definition does not provide much as the definition does not deal with other facets of life such as political, economic, religious etc. which are very pertinent to a humans life. The definition is only confine to dealing with situation and events that an individual may encounter which ultimately leads to reduction of his income or resources. The definition only deals with situations that endanger the individuals and his dependants.¹⁸

As per the contention of ILO social Security is a multi-winged and multi-faceted concept. It is a social need of the people which ought to be started with birth and should proceed till death.¹⁹

As per *National Commission on labour* 'Social- Security' deals with providing safeguards to the individual at the time of enforceable event²⁰.

Definition by Fried Lander

According to *Friedlander* Social security is a security which is to be provided to the society in individual in order to deal with various event and occurrence in life.²¹

As indicated by him the idea of social security is used depict as a program of security to guarantee the supported offer to working class by covering certain risks to which a man is exposed in which these dangers are to such an extent that an individual with pitiful profit can't bear.

Definition by Giri (V.V.)

V.V. *Giri* defines Social security as “Social security, as currently understood, is one of the dynamic concepts of the modern age which is influencing social as well as economic policy. It is the security that the state furnishes against the risks which an individual of small means cannot, stand up to by himself or even on private combination with his fellow countrymen.”²²

Sinfield describes Social security situational i.e., as a state of complete protection against the loss of resources.²³

¹⁶ ILO, *Approach as to Social Security*, 81 (Geneva 1942) also see <http://www.allsubjectjournal.com/download/3947/5-8-17-548.pdf>

¹⁷ As per International Labour Organization, The Preamble of the Constitution refers to protect the interest of the workers against sickness, disease and injury arising out of their employment, pension for old age protection of the interests of workers. This is the first time social security is recognized as a right officially. Subsequently Universal Declaration of Human Rights also recognized right to social security by stating that every member of society has a right to social security. See also *supra* n.2.

¹⁸ Besides this definition ILO Social Security (Minimum Standards) Convention No.102 of 1952 defines Social Security to mean “The outcome accomplished by an extensively and successful arrangement of measures for securing people in general (or a large sector of it) from the economic distress, that, in the absence of such measures, would be caused by the stoppage of earning in sickness, unemployment or old age and after death; for making available to that same public medical care as needed; and for subsidizing families bringing up young children also available at M.K Srivastava, *Agriculture Labour and the Law* 151 (New Delhi: Deep & Deep Publication, 199).

¹⁹ Meenakshi Gupta, *Labour Welfare and Social Security in Unorganized Sector* 80 (Deep & Deep Publication, New Delhi, 2007).

²⁰ The *National Commission on labour* defined the concept of 'Social- Security' as “security that envisages each members of the society shall be protected against social risks which cause undue hardship to meet the adequate need through available resource and this can be achieved only through collective action”. see Government of India, *Report of National Commission on Labour* (Ministry of Labour & Employment).

²¹ *Friedlander* defines Social security as “a programme of protection provided by society against the contingencies of modern life-sickness, unemployment, old age, dependency, industrial accidents and invalidism against which the individual cannot be expected to protect himself and his family by his own ability or foresight.

²² V.V.Giri, *Labour Problem in Indian Industry* 269 (Asia Publishing House, Bombay, 1972)

²³ Danny Pieters, *Social Security: An Introduction to the Basic Principles* 2 (Kluwer Law International).

Essential Characteristics of Social Security

social security is to provide security in the event of old-age, unemployment, sickness during such situation an individual is not in a position to sustain himself and his family members thus security should be provided in order to help such an individual. In most of the case the social security is provided to an individual by the schemes the following are the prerequisite that should be incorporated in the various schemes that may be introduced time and again by the government.

- i. In the first and foremost place any such scheme should incorporate provision on providing monetary benefits to the individual in case he suffers any loss owing to happening of some event.
- ii. These schemes should be endorsed by way of an enactment. It should also clearly mention the obligations or the duty of the state and any enforcement agency towards implementation of the said schemes.
- iii. It should be managed by both public as well as private organization
- iv. The benefits of the schemes should be available as and when required to the person who is in need of the same²⁴

Evolution and Development of the concept of “social security”

Social security existed from the time immemorial designed to have its own social system in the form of joint family setup, craft guilds, philanthropy etc²⁵. While due to Industrialization, Urbanization and Privatization this lost its significance.

Pre-Independence Era:-

Social security is not a development after independence or after the adoption of the Indian Constitution. Social security existence was there in the form joint family, the caste and the community. It is through these agencies the individual were protected during the time of economic calamity. Along with Vedas and the ancient scriptures, religion also encouraged people to maintain harmony in the society. Kautilya's Arthashastra, manusmriti, yagyavalka and Sukranti also talks about the directive principles of state policy.

Among Islamic religion charity was in the form of Khairat and Sadaquah which given in the name of Allah and in certain occasion such as Id-ul-Fitr. Zakat was also paid at the rate of 2.5 percent by the Islam who possess a minimum amount of wealth.

With the industrialization and urbanization, the social set up completely changed. The duty was casted on the state to provide social security after the adoption of Constitution of India through directive Principles of state policies. Through which the Industrial legislation originated.²⁶

However, in 1880, the Indian textile were influencing the market and offering an unbendable competition to the British market. Thus this gave rise to the enactment of the Factories Act 1883. This Act was passed by the British Government to make the Indian labour costlier because of the pressure brought by the textile magnates of Manchester and Lancashire²⁷.

The conditions in those mills were pathetic the labourer had to face excessive working hours. Further there was no provision for safety, welfare, holidays, leave etc. for workers. Indeed, social security was known for its absence²⁸. The employees were prone to more accidental injury due to insufficient safety measure. Thus in order to protect their interest, Fatal Accident Act, 1855 was enacted. Through this act the compensation were paid to the worker and his dependants in case of death or the injury they face at the time of their employment.²⁹

In 1859, two legislation were enacted i.e. Indian Merchant Shipping Act³⁰ and Workmen's Breach of Contract Act³¹ accordingly in 1860, Employers and Workmen (Disputes) Act were enacted which act as a mechanism to settle disputes between employer and employee.³² The workers of the plantation labour rights were protected through Island Emigration Act 1892 and Indian Mines Act, 1901 were subsequently enacted keeping into consideration of the health and safety of the workers in mines.

²⁴ Amoriand Doshi, *Labour Problems and Social Welfare in India*, 333 (Kitab Mahal Pvt. Ltd. 1966).

²⁵ Mmuria and Doshi, *Labour Problem and Social Welfare in India*, 339 (Kitab Mahal Pvt. Ltd. Allahabad 1966).

²⁶ The Apprentice Act was enacted to enable children to learn trades, crafts and to seek employment to earn the living after attending the age of major. This was the first law that was introduced in India relating to labour. Also see S.R Samanth, *Industrial Jurisprudence*, 54 (M/s N.M Tripathi P.ltd., Bombay).

²⁷ History of Labour laws in India available at <http://cyberadvocate.in/mod/page/view.php?id=309> (last visited on 25/6/2015 4:11 P.M) and available at <https://dokumen.tips/documents/chapter-2-historical-development-of-indianlabour-.html>

²⁸ S.C Srivastav, *Social Security and labour laws*13 (Eastern Book Company, Lucknow)

²⁹ Compensation was given only if it is proved in the Court of Law that the accident was not obvious neglect of workers.

³⁰ This Act was envisaged for regulating employment of seamen and to provide for their better health

³¹ This Act was passed which provided for criminal penalties for workers for breach of contract of service.

³² This Act was the forerunner of Industrial Disputes Act, 1947 which played an important role in modern industrial life.

Thus from the above it is evident that the British Government had enacted laws only dealing with particular categories of Industries and these laws did not cover within its ambit the whole working class. There are no comprehensive social security laws and policies or no such things as one umbrella coverage for all workers and they need to be more efficient to cover entire working class. The government has adopted the non interference policies toward the demand of the workers.³³

The First World War in 1919 prompted various new improvement, the world swung to harmony and reconstruction and brought into being in 1919 the International Labour Organization³⁴. In the very same year of its foundation, ILO adopted the Maternity Protection Convention 1919 envisaging payment of maternity benefit. Later between 1921 and 1941 ILO adopted as many as 17 Conventions³⁵. One of the important reform that was brought during the Montague- Chelmsford Reforms was the enactment of Employees Compensation Act, 1923³⁶ followed by enactment of Provident Fund Act, 1925³⁷, Maternity Benefit legislation³⁸ and the Employers' Liability Act³⁹.

The Royal Commission on Labour to enquire into the working condition of Industrial labour was also appointed in 1929⁴⁰. The commission also recommended that maternity benefit legislation on the lines of (Bombay) Maternity Benefit Act, 1929 should be enacted in the other provinces. However, no legislative step except on the maternity benefit (at provincial level) was taken. However, various committees were appointed⁴¹ during this period to look into the condition of the workers health.⁴²

1919-1942 was marked as the major labour reform in the history as there was an amendment in the previous legislation⁴³ and new legislation was enacted accordingly⁴⁴. These enactment addresses to certain industrial set up.⁴⁵ Through this legislation enactment the workers right were protected in term of working condition, the workers were granted intervals during the working hours, holidays, bonus. Amid 1942-1946 India couldn't bear to overlook the development and the social security plans in other countries⁴⁶ consequently the Governemnt of India held a Third Labour Ministers Conference in the year 1942 in Delhi, , through this the Labour Minister in order to protect the interest of the worker recommended for the implementation of scheme of sickness benefit and agreed

³³ Laissez-faire was the ruling doctrine of the day

³⁴ With a sole aim to provide welfare of workers globally ILO was established in 1919. since its inception India is a member of ILO.

³⁵ workmen's Compensation (Occupational Diseases), Workmen's Compensation (Agriculture) Convention, 1921; Workmen's Compensation (Occupational Diseases) Convention, 1925; Workmen's Compensation (Accident) Convention, 1925; Sickness Insurance (Agriculture) Convention 1924; Sickness Insurance (Industry) Convention, 1927; Invalidity Insurance (Agriculture) Convention, 1933; Survivors' Insurance (Industry, etc.) Convention 1933; Old Age Insurance (Agriculture) Convention, 1933; Old Age Insurance (Industry etc.) Convention, 1933; Survivors' Insurance (Agriculture) Convention 1933; Convention (Revised), 1934; Unemployment Provision Convention, 1934; Maintenance of Migrants Pension Rights Convention, 1935; Sickness Insurance (Sea) Convention, 1936 and Ship-owners Liability (Sick and Injured) Convention, 1936.

³⁶ This Act was based on the pattern of U.K legislation, through this an employer is impose liability to pay compensation to workers in the case of death or disablement or occupational diseases that occurred during his employment. Under this Act the dependent or the survivor is entitled to claim compensation.

³⁷ This Act is enacted with a view to set up a fund which is to be maintained by Government and semi- government organizations. It was made applicable to railways and government industrial establishments. Also

³⁸ in 1929, the government of Bombay adopted the Maternity Benefits Act followed by central Provinces in 1930. On the basis of Royal commission recommendation on Labour, maternity benefit legislation was passed in Ajmer Merwara, Delhi, Madars and U.P in the year 1934, 1937 and 1938 respectively. Besides these provincial legislations the period also witnessed central legislation such as Mines Maternity Benefit Act 1941 which benefited women employed in mines.

³⁹ This Act was passed in 1938 which was aimed at abrogating the doctrine of common employment and assumed risk also *see* <https://pingpdf.com/pdf-employee-and-employment-injury-under-the-employees-statei.html>

⁴⁰ The Commission, inter alia, recommended a scheme of health insurance of industrial workers on a contributory basis financed by the employers and by small deduction from the wages of the workers.

⁴¹ such as Cawnpore Labour Enquiry Committee by the Government of U.P in 1937, Bombay Textile Labour Enquiry Committee by the Government of Bombay in 1937 and Bihar Labour Enquiry Committee by the Government of Bihar in 1938. These committees also endorsed the recommendation of the Royal Commission on Labour and pleaded for early adoption of health insurance schemes

⁴² The question was again taken up by the Government of India at the first Labour Ministers' Conference at New Delhi in 1940. The conference suggested ascertaining the view of employers and workers on the issue of contribution towards health and insurance funds. This was followed by the second Labour Ministers' Conference in 1941 which decided to take concrete steps for evolving health insurance Scheme for industrial workers. But no concrete step was taken during this period

⁴³ Indian Merchant Shipping Act, 1923; Assam Labour and Emigration Act, 1893; Indian Mines Act, 1901; Factories Act, 1911 improved up in their scope and object. Employers and Workmen (Disputes) Act, 1860 and Indian Fatal Accident Act, 1855 were reenacted as Workmen's Compensation Act and Indian Trade Disputes Act.

⁴⁴ Tea District Emigrants Labour Act, 1932; Indian Mines Act, 1923 and Indian Factories Act, 1934.

⁴⁵ Mines Maternity Benefit Act, 1941; Indian Motor Vehicles Act, 1939; Indian Dock Labourer's Act, 1934

⁴⁶ Such as Beveridge Report of British Social Insurance and Allied Services, Wagnur-Murray Dingal Bill and Marsh Plan (Report on Social Security) in England, U.S.A and Canada respectively *available at* Agarwala, A.N.: Ten Years of Social Security Moment in India, Economic Essays (Rudra Memorial Volume), p.256.

to advance loan for the implementation of that scheme in industries⁴⁷ in India. A milestone in the area of social insurance was reached by appointment of a committee⁴⁸ in March 1943 by the government of India.

Adoption of International Labour Organization brought changes in the existence labour legislation⁴⁹. Apart from that after First World War, there was a shift in the outlook of the British Government towards the Indian workers. Indians were offered an opportunity to an organization on neighborhood subject called exchanged subjects which paved a way in the growth of industrialization.

Social security stepped into sound footing after Second World War extending the duty towards the Government authorities to protect the interest of the workers through Defence of India Rule⁵⁰. Subsequently the Government started taking interest on initiating labour policy. The committees⁵¹ were appointed accordingly by the Government who submitted their report taking into the consideration of the condition of the labours and on the basis of their recommendation the policy, schemes or legislation were framed accordingly.⁵²

Post-Independence period:-

It was after Indian Independence the worker rights were protected. Crucial labour laws governing the various aspect of work were passed in quick succession. After independence the labour welfare movement acquired new dimension. In most of the case the social security is provided to an individual by the schemes the following are the prerequisite that should be incorporated in the various schemes that may be introduced time and again by the government.

- i. In the first and foremost place any such scheme should incorporate provision on providing monetary benefits to the individual in case he suffers any loss owing to happening of some event.
- ii. These schemes should be endorsed by way of an enactment. It should also clearly mention the obligations or the duty of the state and any enforcement agency towards implementation of the said schemes.
- iii. It should be managed by both public as well as private organization
- iv. The benefits of the schemes should be available as and when required to the person who is in need of the same⁵³

Indian Government took keen interest to provide the security to workers and passed a Several⁵⁴. In order to make employers' liable to pay the compensation to the employees and his dependent for the injury caused arising out of and in the course of employment Employee's Compensation Act 1923 was enacted and at state level Compensation Commissioners are appointed to execute the

⁴⁷ Such as cotton industries, textile industries, jute industries and heavy engineering industries.

⁴⁸ Committee was presided over by Professor B.P. Adarkar followed by the appointment of Health Survey and Development Committee under the chairmanship of Sir Joseph Bhore. The committee was helpful in formulation of the Schemes by Adarkar which was later examined by the, M. Stack and R.Rao ILO experts in 1945 and endorsed a scheme with some modification by including maternity benefits and workmen's compensation in the health insurance and scheme, establishing separate administration that deal with medical and cash benefits and covering perennial factories as well as to non-manual workers.

⁴⁹ Children (Pledging of Labour) Act, 1933; Payment of Wages Act, 1936; Employees Liability Act, 1938; Employment of Children Act, 1938; Weekly Holidays Act, 1942 are some of the new enactments passed during this period relating to labour. These new legislations extend to the entire working class as distinguished from workers in specific industry.

⁵⁰ Rule 81-A

⁵¹ Dr. B. R Ambedkar appointed a 'Standing Committee' in order to formulate a scheme for health insurance for individual workers. With regard to this another committee was also appointed to make survey to examine the conditions of health and health organizations that were in existence than. Government of India appointed E.S.I. Review Committee in 1966 and its recommendation were considered by Government of India and again referred to provincial governments. But no evidence was available to show that these efforts would become fruitful. The Textile Labour Enquiry Committee formulated sickness insurance scheme and recommended in its report that a compulsory and contributory insurance scheme in which the employer, the workers and the state to contribute has to be put in motion at Bombay and Allahabad initially and extended to other cotton textile centers in the province. Though the center forwarded such schemes to states, none was implemented due to lack of interest of the provinces. Professor B.R. Adarkar also supported its report. Government of India again deputed Ms.M. Stack and Rao ILO expert to examine Adarkar Report under which they suggested certain modifications. The modified Adarkar Plan is now known as Employees State Insurance Act, 1948

⁵² The tendency in planning social security to extend all the employees, employed or self-employed, rural or urban in one scheme for assuring maintenance in case of inability to work were highlighted in The two ILO publications viz; 'Approaches to social security—an International Survey' and 'Social security—Principles and Problems Arising Out of War' available at ILO, *Introduction to Social Security*, International Office', Geneva
And ILO, *Approach as to Social Security*, 81 (Geneva 1942)

⁵³ Amoriand Doshi, *Labour Problems and Social Welfare in India*, 333 (Kitab Mahal Pvt. Ltd. 1966).

⁵⁴ Such as Industrial Disputes Act was enacted in 1947 introduced an adjudicating system ; Employees Compensation Act; Employees' State Insurance Act, 1948, Payment of Gratuity Act

Act⁵⁵. The ESI Act 1948⁵⁶ is a social insurance and is a contributory type scheme in which both medical and cash benefits are provided by the Employees' State Insurance Corporation (ESIC). EPF⁵⁷ and Gratuity both is paramount Acts for the Social security in old age.

The Government has also enacted the legislation for the protection of workers working in the Mica and coal mines.⁵⁸

The Maternity Benefit Act 1961 is especially for the women workers it provides them security at the time of pregnancy for the workers it provides them security at the time of pregnancy and delivery⁵⁹. Social security is a subject of concurrent list so the Central Government constituted enactments for the workers and the state government bears the responsibility of their effective enforcement through Labour Department. The constitution of India enriched a list of Fundamental Rights and Directive Principles of State Policies for achievement of social order based on justice, liberty, equality and fraternity. The constitution made specific mention of duties that the state owes to labour for social regeneration and economic uplift.

The word social security is not explicitly mentioned in Indian Constitution but the framer of the constitution leaves no doubt that they are concern of the right of the citizen to enjoy social security by the provision of the Fundamental Rights and Directive Principles of State policy⁶⁰. Thus the concept of social security is implicit in the Constitution.

Two fundamental rights relating to working class are under Article 23 & 24 which lays down certain provision against exploitation of weaker section of the society and prohibition of employment of children in factories. Apart from these two provisions the Article 38⁶¹, 39⁶², 41⁶³, 43⁶⁴, 47⁶⁵ of the Directive Principles of State Policy of Indian constitution in Part IV refers to the State's obligation to make laws. These Articles in the constitution of India assure social security and socio-economic justice to the citizen.

Thus from the above it is evident that the Britisher had enacted laws only dealing with particular categories of Industries and these laws did not cover within its ambit the whole working class. Mentioned may be made of such laws dealing with providing compensation to the workers uncertain emergencies⁶⁶.

In order to provide facilities related to health, recreational, education, and other welfare related matters there are many provision dealing with the same also it is the duty of the Government to sensitized the workers about all the available facilities, schemes etc which is being endorsed by the Government for the benefit of the workers. Nonetheless, the initiatives undertaken by the authorities have proved to be inadequate towards achieving the desired goals.

Conclusion

⁵⁵ Recent amendment in the Act has replaced the 'workmen' word with 'employee' to make it gender neutral.

⁵⁶ Compulsory health insurance and benefits was introduced in the event of sickness, employment injury maternity and so on to the workers.

⁵⁷ The EPF Act is handled by the Employees' Provident Fund Organization (EPFO) which is an autonomous body.

⁵⁸ Such as Mica Mines Labour Welfare Fund Act, 1946 and Coal Mines Provident Fund and Bonus Scheme Act, 1948 were enacted and these provided for levy of a cess on the output of the industry to finance housing and such other projects like nutrition, provision for water supply, educational and recreational facilities etc. of workmen employed in that sector.

⁵⁹ Twelve weeks leave, medical bonus, one month leave after miscarriage etc. advantages are given through the Act. The Maternity Benefit Act and Gratuity Acts are handled at departmental level and factory inspectors check the proper implementation of these Acts.

⁶⁰ To implement the ideals in the Directive Principles of State Policy both the Central as well as State Government are empowered to enact legislation in relation to 'labour' as embodied in list III (the concurrent list of seventh schedule of Indian Constitution).

⁶¹ According to Constitution of India, art. 38 "the state should strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice-social, economic and political shall inform all the institutions of the national life". M.P. Jain, *Indian Constitutional Law*, (Wadhwa and Co., Nagpur, 2003)

⁶² According to Constitution of India, art. 39 "the state should in particular direct its policy towards securing, inter alia, that the health and strength of workers, men and women and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength". M.P. Jain, *Indian Constitutional Law*, (Wadhwa and Co., Nagpur, 2003)

⁶³ According to Constitution of India, art. 41 "the state shall make provision for securing just and humane conditions of work and for maternity relief" M.P. Jain, *Indian Constitutional Law*, (Wadhwa and Co., Nagpur, 2003)

⁶⁴ According to Constitution of India, art. 43 "the state should endeavour to secure to all workers work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities, etc". M.P. Jain, *Indian Constitutional Law*, (Wadhwa and Co., Nagpur, 2003)

⁶⁵ According to Constitution of India, art. 47: the state should regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties. M.P. Jain, *Indian Constitutional Law*, (Wadhwa and Co., Nagpur, 2003)

⁶⁶ In case of injury, accident, closure. Lock-off, lay out, retrenchment.

The concept of Social security is not new concept in India. It was in existence in ancient times in different forms but with the change of time, it changed accordingly. With industrialization and development social security no longer confined to the individual issue it became a issue to safeguard universal human values and more particularly safeguard of the working class. The ILO laid down the standards to uniform the condition of labour of the entire nation. The word social security is not explicitly mentioned in Indian Constitution but the framer of the constitution leaves no doubt that they are concern of the right of the citizen to enjoy social security by the provision of the Fundamental Rights and Directive Principles of State policy.

Thus from the above it is evident that some of the labour legislation is enacted during the British regime and all these early legislation was enacted in connection with specified classes of industries and did not extend to entire working class. Thus the comprehensive labour legislation covering the entire working class is a need of an hour.

References

- [1] Amoriand Doshi, *Labour Problems and Social Welfare in India*, 333 (Kitab Mahal Pvt. Ltd. 1966).
- [2] A.N.: Ten Years of Social Security Moment in India, Economic Essays (Rudra Memorial Volume), p.256.
- [3] Dr. S.C. Srivastava, *Treatise on Social Security and Labour Law*, 5 (Lucknow Eastern Book Company, 1985).
- [4] Danny Pieters, *Social Security: An Introduction to the Basic Principles 2*(Kluwer Law International).
- [5] Government of India, *Report of the Working Group on Social Security for the Eleventh Five Year Plan 17* (2007-2012) Planning Commission.
- [6] Government of India, *Report of the working group on social security for Twelfth Five year plan* (2012-2017) Planning Commission
- [7] Government of India, Working Group Paper on Social Security (Planning commission, New Delhi, 2007).
- [8] History of Labour laws in India available at <http://cyberadvocate.in/mod/page/view.php?id=309> (last visited on 25/6/2015 4:11 P.M)
- [9] ILO, *Introduction to Social Security*, International Office', Geneva Pg. 3 Para 2
- [10] ILO, *Approach as to Social Security*,81 (Geneva 1942)
- [11] Meenakshi Gupta, *Labour Welfare and Social Security in Unorganized Sector 80* (Deep & Deep Publication, New Delhi, 2007
- [12] Mmuria and Doshi, *Labour Problem and Social Welfare in India*, 339 (Kitab Mahal Pvt. Ltd. Allahabad 1966).
- [13] M.P. Jain, *Indian Constitutional Law*, (Wadhwa and Co., Nagpur, 2003)
- [14] M .K Srivastava, *Agriculture Labour and the Law* 151 (New Delhi: Deep & Deep Publication, 199).
- [15] *Report of National Commission on Labour II*, Chapter 8, para 54
- [16] Sir William Beverage, *Report of social insurance and Allied Service*, Beveridge.
- [17] S.R Samanth, *Industrial Jurisprudence*, 54 (M/s N.M Tripathi P.ltd., Bombay).
- [18] S.C Srivastav, *Social Security and labour laws*13 (Eastern Book Company, Lucknow)
- [19] V.V.Giri, *Labour Problem in Indian Industry* 269 (Asia Publishing House, Bombay, 1972)