



Social Security in India: An Analysis

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Abstract

Social Security Concept security has been accepted conceptually. It provides various protections furnished by the society, to its members by adopting a series of measures, which are taken against the economic and social distress. These protections are required by the needy persons because of stoppage or substantial reduction of earnings due to sickness, maternity, employment injury, illiteracy, sex, involuntary unemployment, minority, extreme old age and death etc. Its provide maintenance aspect manifests, in cash benefits to cover the said risks. But as per its new dimension, an addition of non-cash benefit mainly through medical care, social protection through old age homes or other non- cash concessions, has gained much popularity in social security system in present times. The concept of social security is mainly based on the concept of social justice with human dignity and it takes a global character today.

Keywords: Social Security, Welfare State, Compensation, Public Policy, Socialism.

1. Introduction

The concept of social security as it is developed in the west but standardized by the International Labour organization through various its conventions, recommendations, technical co-operation or researches and findings expressed in various programmes formulated, enacted and implemented in various countries including India also. At the initial stage of social security programme in our country, it was depends on the principle of employers liability, who provides compensation amount for injury caused in relation to

employment and maternity benefits to the women workers. After independence a serious thought, was taken for developing such a system of social security which might help the nation in its economic development and through which, socioeconomic disparities, can be removed by providing social justice to the parties and also pick up with the international currents in social security. Consequently, government takes various steps in this field towards social insurance aspect of social security by enacting the Employees State Insurance Act, 1948. It was generally based on the recommendations of Adarkar Committee's Report and on thorough investigations conducted by number of inquiry committees. This trend gained strength after the commencement of the Indian Constitution. With the commencement of Constitution, this concept which has since governed and regulated by all institutions of national life in the country and various institutions of social security by its articulation in the Directive Principles of State Policy. In fact the breakthrough in social security legislations was achieved only after the first half of the present century as, the various legislations such as Employees Provident Fund Act, 1952, Maternity Benefit Act, 1961, and the Payment of Gratuity Act, 1972 etc., was brought into being force by the legislation.

In above view, it can be said that during last few decades, the Government of India has been engaged in the process of evolving policies and programmes for developing a system of social security, which are suitable to the prevalent conditions of our country. The requisite social security laws, have been enacted for the purpose to promote social security system and through these legislations, social security has establish as a protective legal right for the workers, whether is in organised or unorganised sector, by providing them remedial structure and set up administrative machinery for the speedy and effective implementation of social security legislations. The legislative trends in present time are, gained noticeable extension of coverage, higher levels of benefits by prescribing various programmes, new benefits for less

privileged sectors, innovative beneficial provisions, rationalization and simplification of existing programmes, as change over the employer liability schemes, to social insurance schemes. These laws are also providing for effective machinery, for implementation of various provisions which provides in these legislations and for the improvement of existing level of benefits. Consequently, social security is emerging not only as a system, but as a social value, apart from its being a legal concept.

The various schemes of social security mandated in various enactments, are mainly controlled and regulated by the central/ state governments, although by these governments half- hearted attempts have also been made to introduce autonomy in the administration of social security schemes. Much control has been retained by the governments, with the objective of emphasizing the socio-economic goals in the public policy formulations on social security and also with the objective of achieving harmony and uniformity in it. The working of the various social security schemes, in the relevant enactments has faced certain complexities, technicalities and ambiguities, which has led to litigation on certain issues of social security like non-payment of contribution, quantum of benefit, coverage, eligibility, jurisdiction of authorities established under various social security laws.

This has called that even by a limited role plays by the judiciary, yet in the process of evolution and development of social security, it has emerged this institution more friendly. The trends in this regard, have been that judiciary in India has adopted a pragmatic approach and has helpfully taken a benevolent attitude regarding the concept of social security. It has modified, changed and sometimes dropped various doctrines of Common Law, which have had concerns on social security legislation. Judiciary has plays a vital role and helped in the effective implementation of social security legislations by imposing the various penal

provisions provided in various Social Security legislations. It is clear from various the judgments of the High Courts and Supreme Court, Constitutional validity of various social security legislations, is being upheld. Further, it has also influenced that the public policy on social security to a great extent and plays role as instrumental in shaping the new legislation and improving the existing one. In fact it will not be an exaggeration to say that interpretation of various social security legislations by our Indian judiciary has created a Labour Jurisprudence, which has its separate principles and now it is gaining a distinct and valuable status in the sphere of Jurisprudence.

The judiciary has also played a perceptible role in shaping social security legislations, but its role has been limited because there are certain limitations on judicial action, as constrained by Indian Constitution, yet the Indian Judiciary especially the Supreme Court and High Courts, have significantly enhanced the promotion and development of social security schemes. Further the Social Security enforcement machineries like the Provident Fund Commissioners, Employees State Insurance Courts, Workmen's Compensation Commissioners and other Controlling Authorities, are not far behind in the protection of beneficiaries from hardships. The Supreme Court of India broadly interpreted the terms of arising out of and in the Course of employment, employees, and nature of work, accident and the principle of the Notional Extension.

The most important restriction on the judiciary is that it does not review the whole legislation concerning to social security, unless the question of constitutional validity regarding such enactment has arisen. Further, the judges are generally untouched with public opinion and also, are not much aware of social problems as the public representatives are. Sometimes the judicial subjectivity also creeps into judicial decisions. Different social security originations

also occasionally review the working of the system through their agencies. The statutory provisions of an enactment, might introduce necessary changes. The cumulative effect of all these efforts witnesses more often for improvement of benefits, simplification of schemes, wide coverage, and administrative improvements and so on. Thus the workers have largely been benefited with the improvement in the system, of the employers in any case of accident arising out of and in the course of employment, where the defense of the negligence and added peril has no place.

The enforcement machineries have also protected the interest of the workers at the local levels, though they have not been so effective in implementing their decisions, because these agencies do not possess the powers of enforcement of its own final orders or decision. Majority of the disputes relating to the social security, are reported to the labour courts, because the workers are unaware and lack confidence or faith in the enforcement machineries. The proposed Comprehensive Social Security Scheme tries to remove all the complexities of the procedure and jurisdictional aspects in enforcing the final decisions of these enforcement machineries under the existing schemes.

Despite the above achievements and the efforts, the experience shows that certain insecurities created by industrial hazards and risks of pollution remain uncovered. There is a problem of rehabilitation for the disabled worker, victims of industrial accidents. Again, a large section of vulnerable population, especially in rural sector, is outside the scope of all social security schemes. This situation is caused by certain formidable difficulties and constraints like limitations of access, limitless of numbers, absence of organization, ever-increasing expenditure, poor and inadequate machinery for implementation, lack of co-ordination, bureaucratic procedures, problem of priorities in view of increasing expenditure, problem of

shortage of funds and proper resources, revision of benefits in view of rising costs and so on. Further, regarding the working of the present system of social security, the workers and their organizations, employers and their organizations, social security administrators, jurists and academicians have expressed their dissatisfaction in varied degrees and on various counts during the course of investigation by and in the course of the discussion with the writer of this work. They have their own approaches and opinions on the rationalization of social security system.

The above discussion shows that the problem of social security requires thorough examination and research in order to develop a more rationalized and more self-sustaining system. Looking towards the needs of economic development, distributive justice and the values which are shaping the socio-economic order of the Indian society, the short-term solutions are not of much avail. Any make-shift arrangements, short-lived remedies and ephemeral steps are not going to deliver goods either. After studying the operational, organizational, legal, financial and developmental aspects of social security, along with judicial responses and the behavioral pattern of the workers, employers, social security authorities and government in respect to evolution of social security system, it may be concluded that the real solution lies in the composition of a National Commission on Social Security, which will review all the aspects of social security and will suggest a framework of self-sustaining and a better developed system of social security in India. Also there is a need of the setting up an Indian Institute of Research on Social Security Problems, which should be permanent body wedded to maintain the continuity of the processes of growth and improvement of social security system. As the economy undergoes change and societies develops, there emerges a need for social security to those, who lack an income due to disability, old age, death of main bread earner, maternity, unemployment, employment injury

at work place etc. The social security introduces the element of stability and protection and contributes to a somewhat more equitable distribution of income between the fortunate and the unfortunate.

The concept of social security is much more than a charitable and humanitarian device. It is a constrictive policy, which promotes industrial efficiency and against its costs it must be set substantial economic returns. The provisions of the medical benefits especially increase the economic productivity of the present generation of the workers and welfare services for the dependents of the employees raise the efficiency of the next generation. So the social security measures protect the workers from falling below minimum standard of living particularly at the time of economic crashes and unforeseen contingencies.

The Social Security protection covers about 07% of the total workforce in organized sectors in India. The Social Security programmes in organized sectors are of a protective nature that includes medical care, employment injury, sickness, maternity old age etc. Due to many contributory factors and the loopholes, the benefits from these programmes reach only to a small percentage of the workers. The liberalization and globalization revealed the neglected aspects of the social security programs in this country. Globalization led to growth of unemployment along with the removal of labour through the instrument of hire and fire used indiscriminately by the entrepreneurs and owners of the commercial establishments. This has led to rise in poverty, deprivation, vulnerability and marginalisation of the working force. The Government of India made the employers to follow committed social security protection for those employed by them. The Government has appointed a numbers of commissions and committees to review the social security functioning and give recommendations for further improvements.

Still there is a need for initiative at the national level to start comprehensive social security policy by integrating all the existing Social Security schemes, which will cover all workers in the organized sectors and provide all the benefits to the employees and their dependents from womb to tomb. The integration brings the different schemes of Social Security under one roof. Various agencies are responsible for disbursement of benefits, making provisions of services and maintenance of records may be integrated within one single organization, which takes the responsibility in regard to all activities, formally rendered by those agencies. The National Commission on Labour in 1969 and 2002 recommended the comprehensive social security scheme of labour treating it as a national concern and obligation for the state.

Further various social security enactments have been implemented at the domestic as well as in other industrialist countries. Indian Social Security Systems also provides supportive measures against sickness and disablement arising out of and in the course of employment. Retirement benefits include the payment of gratuity, pensions and provident fund. Indian progress on the subject matter has been influenced by the development at the International level. The United Nations Organization's Covenant on the Universal Declaration on Human Rights 1948, International Covenant on Civil and Political Rights and the International Covenants on Economic, Social and Cultural Rights 1966, have played a vital role in providing social security rights, as the human rights protection at the international level. Japan and United States of America have stressed the need for the comprehensive Social Security Scheme with integrated scheme, because it would be more economical, better administered as well as more effective for attaining its goals.

The subject matter of the Comprehensive social security was discussed by the National Commission on Labour and Study Group Committee, but it could not gather momentum. The

role of the International Labour Organization in promotion and propagation of the subject in India as well as in the world cannot be ignored. It is a landmark institution in providing conventions and recommendations on various labour related issues. But in India, due to its social, economic and political reasons, it could not ratify all the Social Security conventions of the International Labour Organization. The progress is very slow as only 05 out of 20 Conventions are ratified by India, till date. The subject matter of various Social Security Conventions has been incorporated in other provisions partially adoption, according to the need of the country. The chapter wise conclusion of the whole research work is such as following;

The concept of Social Security has assumed a special reference in the recent years. The Right to Social Security is protected in a whole raft of human rights instruments both at the international and regional level. The concept of Social Security is a broad one and because the term can be interpreted to contain both a limited and a wider spectrum of entitlements, it is closely related to and indeed often supplemented by a number of inter-related rights in these instruments. Social Security today is a socio- economic demand of every society irrespective of its political creed. It seeks to compensate for underserved wants, disabilities, inequalities and deprivation of the established socio-economic order of the society. It offers the underprivileged the dignity, self-confidence, belief in just society and new means for moral, Social and material betterment. Its notion is now a day's universal owing to urge for balanced economic growth, worldwide awakening of rights of individuals in the society, emergence of welfare state and like factors.

Social Security is a dynamic concept, which is considered in all advanced countries of the world as an indispensable chapter of the national programme to strike out the root of poverty,

unemployment and diseases. It has been considered most essential for the industrial workers but with the development of the idea of Social welfare state, scope of Social Security now includes all other sections of the society in its ambit such as; woman, old age person etc. Today, when the world is passing through an industrial marching on time, it becomes necessary for the state to provide the basic human protection to its employees who worked in its establishments because due to industrial and scientific advancement, risk of life have increased manifold. With the introduction of industrialization and growth of society, it has been increasingly felt that the institutions which could provide Social Security should be established. To achieve this basic and necessary Social protection, the concept of Social Security is most adjuvant for this and it secure to all needy persons, a Social protection for their survival at the state cost and put an important responsibility on a Social welfare state to provide necessary Social assistance to its citizens.

With the passage of time, Social Security has undergone a revolution in regard to its objects and scope. In pre-independence era, legislations dealing with Social Security were limited in their scope. But after independence, India has made tremendous progress in the area of Social Security legislations.

Social Security is increasingly becoming a global phenomenon by capturing the attention of economists, sociologists, legislators, labour law experts, employers and the trade union functionaries. All over the world, the Social Security has been adopted with the unified objective of providing against certain work risks and contingencies. But each country has tried to develop its Social Security institutions according to its own constitutional framework, political history, the socio-psychological factors of importance for its people, the extent of private methods of Security, the relevance of economic conditions providing in the country

and other related institutional factors. Therefore, there may be differences in the visions and approaches towards Social Security objectives. Presently, Social Security is finding its due place in every socio- economic developmental programme, supported by a legislative superstructure and carried out through an administrative apparatus. Now, it is well established throughout the world and has developed as a system. The reason for its wide acceptance and ready adaptability is that it is based on human dignity and ideals of Social justice. It has also been recognized as an incidence of human rights. The Universal Declaration added stress on right to Social Security. It is desired that it must be available to everyone in the society through national efforts and by international co-operation programmes. The importance of Social Security has been emphasised by different political leaders, Social reformers and economists in different ways. Today the philosophy of the concept is universally acknowledged as it has been accepted in principle that Social Security is the aim of all Social welfare activities of all countries following different ideologies, different Social and political structures and different economic policies. The methods adopted by the various countries may be different, but the purpose is the same everywhere. The concept of Social Security has united them all. Although the term was made popular only during the thirties of the present century, the philosophy behind the scheme was quite popular much before. The International Labour Organization Committee of Social Security experts conducted a comparative analysis of cost of Social Security in forty-two countries. The report of this Committee was published by the International Labour Office, Geneva, in 1961. The emphasis on Social Security varied from country to country, as the experts maintain and Differences between the Social, economic and political developments and structures of the different countries make for differences in the nature and degree of Social protection required. Consequently the relative importance attached to individual branches of Social Security often differs from country to country, For example, in one country the

emphasis may be on family allowances and in another on unemployment insurance. In many countries, this concept is yet to secure popular support. In some others, it is yet to reach its final stage. The analysis revealed quite a number of interesting facts. The experts made it clear that a country with a high level of unemployment and in which large sums are spent on unemployment protection, or a country which has suffered severe epidemics and has thus incurred heavy expenditure on health services, cannot be considered more advanced in Social Security than other things being equal another country in which the total cost of Social Security forms a smaller percentage of the national income because the level of unemployment has been lower, or the health situation has been more favourable.

It must be repetitious to say that the Social Security today is well established and internationally recognized phenomenon. The credit for this goes to the institutional arrangement of Social Security at international level. This arrangement provides a widely accepted mechanism of Social Security which consists in counteracting the random injustice of natural and economic forces by rational and planned measures. The two global organizations, namely the International Labour Organization and the International Social Security Association, contribute mainly for the development of Social Security at international level. So, Social Security is increasingly becoming global phenomenon by capturing the attention of economists, sociologists, legislators, labour law experts, researchers, employers and trade union functionaries. In modern economics, social welfare is the ultimate goal if all economic activities in the capitalist economy. Today the philosophy of the concept is universally acknowledgement on it has been accepted in principle. That is the reason; the concept of social security has assumed a great importance at international level in almost all the countries of the world.

India's growth story in the last two decades has had one recurring theme that the pattern of economic growth is accentuating insecurities. Yet, there continues to be a deep divide over, whether the gains from growth ought to be ploughed back to achieve Social Security for everyone. Social Security has come to be linked to job benefits, tying it to one's status as a worker in the formal or informal economy when, fundamentally, it originates from the notion of ensuring everyone protection against vulnerability and deprivation. Indian Constitution asks the state to within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want. The goals of a government wedded with the principle of welfare State should be to secure for each human being the economic necessities, a high standard of health and decent living conditions, equal opportunities with his fellow citizens and the highest degree of self-respect and freedom of thought and action, without interfering with the same right of others.

It was under the banner of the International Labour Organization, who discussed the problem of Social Security for the labour. The adoption by the International Labour Organization of the first Social Security conventions in the late 1920's gave marked impetus to the world movement in this field. But still, till 1944, no international body took up the problem of minimum income for labourers. The Income Security and Medical Care Recommendations approved by the International Labour Conference in 1944 played an important role in stimulating progress in Social Security based on insurance by laying down acceptable minimum standards and objectives adapted to present-day requirements of countries in different stages of economic development. They were a forerunner of the Social Security (Minimum Standards) Convention in 1952. The Seventh Report of the International Labour Organization to the United Nations considered this convention as the culmination of thirty

years of work in the field of Social Security. For the first time, an all-embracing programme for the Social Security of labour was discussed and framed there. It was for the first time that the International body discussed as many as nine different aspects of Social Security through Social insurance such as medical care, sickness benefit, unemployment benefit, old age benefit; employment injury benefit, family benefit; invalidity benefit, maternity benefit and survivors benefit were all covered by the Scheme. The International convention also discussed the rates of benefits and other details of the programme accommodating the needs of the various participating countries with different economic backgrounds. Whereas some countries were to revise and re-orient their already existing schemes, some countries started right from scrap.

The plight of industrial worker who underwent debts has been described at length by the Royal Commission on labour. It reported that money lenders prey upon workers and depend upon the threat of violence. The lathi is the only court to which they appeal and they may be seen waiting outside the factory gate on pay day, ready to pounce on their debtors as they emerge. The Commission emphatically opposed the method of lathi rule of money-lenders inside the factory. It was made clear that loitering within the precincts or near or within the sight of any gate or outlet of the establishment should be treated as a criminal offence. This was the first blow against the indigenous money-lender who was living on the blood of the needy workers who never failed to promise a high rate of interest and fell in the clutches of the Spinlocks. For the first time in 1935 the Bengal Workmen's Protection Act, was passed in this and Madhya Pradesh (then known as Central Province) passed a similar Protection of Debtors Act in 1937. In 1936 the Central Province Adjustment and Liquidation of Industrial Workmen's Debt Act was passed where the provisions were made to liquidate the debt with breathing gaps.

Legislation or statutory law is law which has been promulgated or enacted by a legislature or other governing body. Before an item of legislation, becomes law it may be known as a bill and may be broadly referred to as legislation, while it remains under consideration to distinguish it from other business. Legislation can have many purposes: to regulate, to authorize, to outlaw and to provide funds, to sanction, to grant, to declare or to restrict. It may be contrasted with a non-legislative act which is adopted by an executive or administrative body under the authority of a legislative Act or for implementing a legislative Act. Legislation is important for several reasons, including setting standards and controls to govern the actions of people and groups in the public and private spheres. Legislation is sometimes referred to as statutory law and it is law that has been put into place by the actions of a legislature or governing body. Legislation is valuable to setting societal standards and norms at all levels of government including the local, state and national level. Legislation at all levels can serve several purposes. It is used to regulate activities, authorize certain actions, supply resources such as funding, implement sanctions and permit or deny certain activities. For an issue to be considered for passage or denial in legislation, the item must first be proposed by a member of the legislature, such as a member of Congress or a judge. The item is then discussed among other members of the legislature, who decide whether to put the item up for consideration in passing legislation.

The founding fathers of India adopted the course of a mixed economy i.e. economy where private and public enterprises co-exist. An economy in which a substantial number, though by no means all, of the activities of production, distribution and exchange are undertaken by the government, and there is more interference by the State than there would be in a market economy. A mixed economy thus combines the characteristics of both capitalism and socialism and the economic development of India since independence is unique in several

ways. India's development pattern during 1959-1980 was characterized by strong centralized planning, excessive regulation and control of private enterprises, state ownership of basic industries, trade protectionism and a cautious and selective approach towards foreign capital. It was nothing but a permit and license regime. Since 1985, successive governments realized the lower rate of growth and carried forward reforms in industrial, financial, fiscal and external affairs. It reached a stage of liberalization, privatization and globalization all the way. In the new liberalized industrial and trade environment, the government is allowing competition and market forces to guide investment decisions. Government started progressively assuming the role of promoter, facilitator and catalytic agent instead of a controller and licenser of private economic activities. The preamble expresses the essential features of political and economic philosophy underlying the provisions of the Constitution. It declares that India would be a sovereign, socialist, secular democratic republic and to secure to all its people justice, liberty, equality and fraternity. It assures a democratic way of life and embraces the ideal of establishing social, political and economic justice in the country. Social security legislation, like all other legislations, cannot be evaluated apart from the actual administration. It has been said that a bad law well administered can be of greater good and greater significance than a good law badly administered. The way in which social security laws are administered is, therefore, as important as the provisions of the law itself. It is only through the administration of social security laws that their utility and futility can be judged. The experience gained in the process of administration of any law further improves fit. The interaction of Law and its administration breeds the real values like the dignity of the individual, incentive for employment and rehabilitation, encouragement of thrift, self-reliance and initiative. All these are vital for productivity, growth and harmonious relations in an organization. The effectiveness of organization and machinery for the administration of any Law depends on the purpose-oriented approach, co-coordinating mechanism, manageable

span of control, unambiguous division of work, training and skill of personnel, Social acceptability of law and sincerity aid attitude of the personnel. In India the administration of social security legislation is vested in the various authorities and functionaries created for the purpose in the relevant Jaws. The peculiarity of the machinery and organization for administering the social security laws is that their powers and functions and modus operandi of their functioning have fairly been defined so as to achieve the effective implementation of legislation and to provide speedy remedies to the beneficiaries in enactments, is to be noted that all through there is a general control and supervision of the state in the administration of social security legislation in order to achieve the social purpose of it and to secure public image and acceptability of the various enactments bearing on social security system in India.

Due to the rapid urbanization, commercialization and personalization in relations, the joint family system has been broken down. The elders are finding it difficult, to sustain themselves in old age due to growing of the nuclear families, migration of their wards to the big cities or abroad, for work and increasing longevity. In the present prevailing situation, the conditions of senior citizen have become very critical because young people in the present time, treats senior citizens as a burden on them. As a result of this, senior citizens are facing number of problems like social, disrespect health and financial insecurity. This has compelled most of the senior citizens to depend on their savings or their provident fund and gratuity who has been working in serving or rest, at the mercy of God, whose value is shrinking by the day. This condition is getting aggravated in absence of effective safety nets for elders. Therefore, it has become necessary that the elders should be provided social protect by the State i.e. may be treated as Social Security.

The United Nations Organization (UNO) is an intergovernmental organization to promote international co-operation and create and maintain international order. A replacement for the ineffective League of Nations, the organization was established on 24 October 1945, after World War II, in order to prevent another such conflict. In future at its founding, the UN had 51 member states, which are now 193. The headquarters of the UN is in Manhattan, New York City, and experiences extra territoriality. Further main offices are situated in Geneva, Nairobi and Vienna. The organization is financed by voluntary contributions from its member states. Its objectives include, maintaining international peace and security, promoting human rights, fostering social and economic development, protecting the environment and providing humanitarian aid in cases of famine, natural disaster and armed conflict.

Surveys have found that one out of every six older persons, living in urban areas in India isn't obtaining proper nutrition. One out of every three older persons does not obtain sufficient health care or medicine and one out of every two older persons, don't receive due respect or good conduct from family members or people in general. In today's state of urbanization in which women are increasingly joining the workforce, the roots of joint family systems are eroding. Higher numbers of older people, who have spent most of their life with their joint/extended families, face loneliness and marginalization in their old age. This disappearance of joint family system in India has necessitated for making the provisions of social security for old aged persons and senior citizens. By various provisions, old ages persons are protected in number of ways like providing economic independence, healthcare facilities etc. For the senior citizens, social security can works like a protection cell, which provides security through the medical benefit and old age pension plan. Social security deals not only with social risks as, sickness, unemployment and social exclusion but also with

programmes which secure income for senior citizen. Presence of social security programs can maintain social cohesion and can prevent irreversible losses of human capital. The poverty in rural areas for older persons is increasing and needs attention. Hence rural poor would need social security provisions in large measure. Indian Constitution guarantees, economic protection to the old age persons. The constitution of India, supreme legislation in the country, provides that the state shall, within the limits of its economic capacity and development, shall make effective provision for old age, sickness and disablement and in other cases of underserved want. Though the provisions under the part IV of Constitution i.e. Directive principles of state policy, are not enforceable by any court, as constitution provides that, the provisions contained in this Part, shall not be enforceable by any court, still the principles laid down therein are fundamental in the governance of the country and it shall be the duty of the State to apply these principles while making laws.

Further principles imposes positive obligations for state i.e. what it should do. So Indian Constitution casts an obligation to protect the old age persons at the cost of state, by providing the social security to such deserved persons.

The judiciary has been an arm of social revolution in many societies, particularly in the democratic ones. It upholds the rule of law and brings about social readjustment necessary to establish coherent socio-economic order. In Common Law, judiciary formulated various principles of law and declared judicial legislation. The complexities of growing social order and developing economy, do not keep law at standstill, it moves continually in consonance with the changing needs of the changing society. If this is recognized, then the judiciary assumes to greater responsibility and works in as an activist's role. It must continuously seek to mould the law so as to serve the needs of the time. Law confers rights, and rights have no

life without remedies provided by judicial system. The social security legislation will have a real meaning only when stress is laid on what is described as remedial jurisprudence through the judicial powers. In interpreting the social security legislation, the judge must avoid mechanical approach and adopt a pragmatic one, being guided by socio-economic values and needs of society. While interpreting the social security legislations, the Indian judiciary, considering it a piece of beneficial legislation and it has been benevolent to protect the interest of the down-trodden section of the society and at the same time avoided to become benevolent despot. It always kept in the view, its broader objective of various enactments of social security and to interpret them within the framework of the ideals and principles which enshrined in the supreme law of the country, enshrined under the Indian Constitution. Further to make the most difficult process of adjustment, it attempted to keep itself free from the tyranny of dogmas or subconscious pressure of preconceived notions and adopted a flexible and pragmatic approach. All this can be noticed, observed and well felt through the various decisions of the High Courts and Supreme Court while judging the Constitutional validity of several enactments as to provide socio-economic and natural justice to the parties, in determining the coverage and eligibility conditions, in clarifying the judicial nature of various authorities, in viewing benefits with regard to their magnitude and duration, in encouraging the vigorous enforcement of various policies, schemes and programmes in different provisions of relevant enactments and so on. The behavior and attitude of the judiciary can appropriately be studied under several heads such as Constitutional validity, promotion of natural and social justice, coverage and eligibility, benefits, jurisdiction of various Authorities, enforcement of social security legislation, contribution, judiciary and public policy and miscellaneous.

The social responsibility of modern welfare state extends to the field of human rights and imposes an obligation upon the government to promote liberty, equality and dignity. This welfare idealism covering wide range of socio-economic demands as well as aspirations of the people is seen permeated into the Constitution as Part III and part IV. The debates in the Constituent Assembly categorically shows that the utility of the state would be first judged from its effect on common man welfare and the Constitution must establish state's obligation beyond doubt. The Fundamental Rights and Directive Principles are aimed at ensuring distributive justice to common man in India. In a nutshell, both these parts constitute the philosophy of the social service state. But the true nature, significance, role and objective underlying the Directive Principles have not been rightly appreciated by courts initially. There has been conflict of opinions about the status and position of Directive Principles vis-à-vis Fundamental Rights in the Constitution. Soon after the commencement of the Constitution, the approach of the judiciary was to give an undue emphasis on the unenforceability of Directive Principles without taking them as fundamental in the governance and ignoring the constitutional duty imposed on the state to implement them. The non-justifiable and non-enforceable character of these principles as discussed and concluded by the Constituent Assembly might be the reason behind this approach of judiciary. Thus it strengthened the belief that Directive Principles carry mere pious aspirations of little legal force and had to conform to and run subsidiary to Fundamental Rights.

The Indian Constitution set certain values, which altogether make efforts happy balance between individualism and socialism. It eliminates the voices of unbridled private enterprises and protects interests by social control and welfare measures. The value system structured by our Constitution finds its expression in its various provisions and, more particularly, in Part III, Part IV and the preamble of the Constitution which cumulatively emphasize that political

democracy can be preserved and would be meaningful only when coupled with the attainment of socio-economic democracy imbuing human and democratic values, a rule of law and socio-economic justice. These values of goals control in formal as also in informal manner, every legislation including the social security legislation. Even if some Social security legislations are pre-constitutional ones they must not be inconsistent with the social objectives set forth in the Constitution. Therefore, social security legislation helps to achieve the value goals set by the Constitution and, hence, they are to be enacted and amended according to the principles enshrined and, procedure prescribed in the Constitution. Social security legislation derives its force and validity from the Constitution. In other words they are to be enacted and amended according to the scheme of distributor of legislative powers in the Constitution and, according to the procedure prescribed for the purpose, without infringing fundamental rights and also, within the framework of the spirit of broad goals and ideals set in the Constitution. Many a times the Constitutional validity of the various social security legislations has been challenged in the Courts of law to protect against arbitrary legislation. Such challenges seem to be prompted by certain interests of business and traditional attitudes of individual liberties.

The Indian judiciary plays an important role in the protection of fundamental rights of the citizen and non-citizens alike. The twin safeguards of equality before law and equal protection of laws, are acknowledge as two of the most important pillars of human rights of the universe of freedom that is where ever freedom to assert human rights is recognized, whether under an unwritten or a written constitution. India is the largest democracy in the world, a sovereign, socialist, secular democratic and republic with a comprehensive charter of rights written into its constitution. The Indian Constitution lays down base on which its foreign policy should be constructed and its international obligations respected. These bases

are articulated principally in Article 51, which occurs in Part IV of the Indian Constitution. The true nature and scope of the function of the court has since long been a matter of debate almost in all the countries regulated by written Constitution. Austinian Jurisprudence gives a very narrow view of the judicial function. Austin defined law as a command of the political sovereign and his sovereignty was indivisible and absolute, only the legislature could make law. The function of the court was merely to declare the pre-existing law or to interpret the statutory law. But on the other hand, the realist movement in the United State the latest branch of sociological Jurisprudence which concentrates on decisions of law courts.

REFERENCES

- [1]. Abraham Anita, Singh D and Pal Poulomi, Critical Assessment of Labour Laws, Policies and Practices through a Gender Lens, published by National Resource Centre for Women (2014).
- [2]. Ahmad, E., Social Security in Developing Countries, Oxford: Clarendo Press, (1991) 3. A.M Sharma,
- [3]. Aspect of Labour Welfare and Social security (Himalayan Publishing House, Mumbai, Reprint 2006)
- [4]. Amoriand Doshi, Labour Problems and Social Welfare in India, (Kitab Mahal Pvt. Ltd. 1966)
- [5]. Dr. S.C Srivastava, Treatise on Social Security and Labour Law (Lucknow Eastern Book Company,1985).
- [6]. Depak Bhatnagar, Labour Welfare and social Security Designation in India, (Deep and Deep Publications, New Delhi, 1984).
- [7]. Dr. U. C. Kulshrestha, Labour Problems & Social Welfare (Lakshmi Narain Agarwal Publication revised Edition2005).
- [8]. <http://cyberadvocate.in/mode/page/view.php?id=309>
- [9]. http://www.planningcommission.nic.in/aboutuc/committee/wrkgrp/wg_soclscty.pdf
- [10]. http://rural.nic.in/sites/downloads/gramin-bharat/gb_mar_eng09.pdf www.sacw.net
- [11]. <http://pmindia.nic.in/nac/communocation>
- [12]. http://rural.nic.in/sites/downloads/gramin-bharat/gb_mar_eng09.pdf
- [13]. <http://www.economicdiscussion.net/labour/policy-labour/labour-policy-of-the-government-india-economics/29326>
- [14]. <http://enb.iisd.org/crs/mdg/summit2010/html/yimbvol153num9e.html>
- [15]. http://library.fes.de/pdf-files/ipg/2011-2/05_a_cichon.pdf
- [16]. https://rbi.org.in/scripts/BS_SpeechesView.aspx?Id=281
- [17]. <http://www.wordreference.com/definition/globalization>
- [18]. <https://lonesomelozor.wordpress.com/tag/those-who-cannot-remember-the-pastare-condemned-to-repeat-it-george-santayana/>
- [19]. <http://nrhmmeghalaya.nic.in/>
- [20]. https://www.researchgate.net/publication/236889012_Social_Security_Budgets_in_India_A_Critical_Assessment <http://worldbank.org>