CHAPTER- X
CONCLUSION AND SUGGESTIONS

10.1 Conclusions

The concept of social security protection for the industrial workers is not new to India. The Pre-Constitutional era witnessed the enactment of major social security legislations for the industrial workers with more emphasis on the claims of the workers employed in the organised sector. Even the immediate Post-Constitutional era also witnessed the enactment of specific social security legislations aiming defined benefits applicable to the workers employed in organised sector. The reason for this trend was the adoption of Tripartism in the industrial relations visualising the International Labour Organisation (ILO) model by Government of India keeping in view the Constitutional commitment of the Welfare State.

The Indian Labour Conference (ILC) and the Standing Labour Committee, an executive wing of ILC, have assumed greater significance immediately after the independence and made resolutions in successive sessions covering the needs of the workers employed in the organized sector. This is mainly because of the Central Trade Union Movement Organizations which by and large solely confined their concentration in respect of the
claims of the workers employed in the organized sector. At the same time the concept of trade unionism was totally new to many avocations in the unorganized sector. It is only after the first two decades of the Post-Constitutional era which witnessed some consideration by the State in respect of the claims of the workers in the unorganized sector. The result was the enactment of few sector specific welfare legislations to address the welfare needs of unorganized workers. These enactments were also had only limited application covering only meager percent of unorganised workers.

Thus the gap in consideration of needs and claims of the workers in the organized and unorganized sector had gradually widened over the years. The Industrial Policy Resolutions adopted by the Indian Labour Conference, from time to time, in fact made more impact on the public sector undertaking. The policy makers, the bureaucrats, the labour law experts and the philanthropists have certainly failed to note the growing trend of the workforce in the informal sector. The workforce in the informal sector is directly and indirectly contributing major share to the Gross Domestic Product (GDP) of the nation. In fact, the Report of National Commission for Enterprises in the Unorganised Sector (May 2006), confirms that 60% of the GDP is contributed by the workers in the unorganised sector. At the
same time these workers are deprived of a well defined and structured social security benefit mechanisms. Over the years every agency has failed to ensure a minimum return for these workers.

The era of Liberalization certainly has opened the flood gates in multiplying the depravations confronted by the unorganized workers in the country. At the same time the country also witnessed the birth of strong N.G.O. movement who in fact in many respects acquainted themselves with the issues of the labour in the informal sector. Ironically it is their impact which has led to the formation of many organizations directly promoting the interests of the workers in the informal sector.

This has, to a large extent induced pressure on the Government to make a commitment to the claims and needs of this deprived working class. The resulting factors are the appointment of High Power Commissions in respect of rural labour, self employed women workers and the unorganized sector workforce in general. Undoubtedly the Reports of the High Power Commissions, even during the era of the Pre-Independent history as well as during the period of Post-Independent era, have made definite findings on the needs and claims pertaining to the workers in the unorganized sector.
Again those observations and recommendations are confined to the specific categories of unorganized workers who are large in number such as workers in the plantations, agriculture and construction activity.

The judiciary including the Summit Court, so far in the history had no occasion or opportunity to directly deal with the claims or needs of the workers in the informal sector. Their narrow stint with claims of unorganised workers was limited to deciding the claims of the contract labour employed under the Contract Labour (Regulation and Abolition) Act, 1970. The Supreme Court, however, in general emphasized and enlarged the scope of the prime Fundamental Right i.e, the Right to Life by holding that it includes right to decent working conditions. Beyond this the judiciary did not go a step further. Over the years the claims of unorganized workers, whom one can safely address as poor to poorest workers of this Country, are neglected by all partners of the society. In this context, to a large extent the directives in the Part IV of the Constitution remained mere theoretical postulations.

It is only in mid nineties, Government started giving little attention to tribulations of unorganised workers. The compulsions behind the State in
addressing the problems confronted by the informal sector workers are the “globalization process”. The technology which was prevailed in India whether in engineering sector or automobile sector remained out dated in terms of the quality and technology before the giant multinational global companies. Over years this has resulted in job losses in many large scale industrial establishments with the initiation of the liberalization process. This has increased the employment pressure on the informal sector and added to this phenomenon the trend of the growing population in the country also induced a dominant pressure on the informal sector. This gap has been identified by the NGOS and labour Organisations which are dedicated to the cause of the workers. Even the Central Trade Union Organizations started addressing the issues of unorganised sector workers at this juncture. These are the recognized compulsions on the State to make a commitment in addressing the needs of the unorganized workers. An utter disturbing trend in this context was the initiation of target oriented social welfare and social security benefits for the rural population under the popular programmes by the Government of India, without any statutory backing. One can easily identify the conflict in choosing the beneficiaries under these popular programmes which by and large remained to be a political pronouncement rather than pragmatic.
The assessment of these schemes reveals that even though there are several schemes and welfare funds both at the Central and State levels providing social security benefits to the downtrodden section of society, the majority of these are not benefiting unorganised sector workers. This is because of the reason that the social security benefits in India is characterised by lack of a consistent policy. They have been framed on the basis of political considerations keeping in mind vote banks. Moreover, targeting approach is inappropriate to cover the unorganized workers, for the simple reason that a large number of unorganized workers do not fall under the income criterion specified and yet, they are vulnerable and do not have social security. Further, recent studies have also shown that the very method of estimating of BPL criterion is erroneous method and suffers from various flaws.

Secondly, most problematic and undesirable aspect of social security systems in India is involvement of multiple government agencies. There is a growing tendency of executing social security programmes through a number of Government Ministries and departments. This situation is continuing because India still doesn't have a national policy on social
security. This problem is further compounded by the fact that welfare is primarily a responsibility of State Government and every State Government launches its own programmes of welfare according to its resources. This multiplicity of agencies and overlapping of programmes lead to diffusion of energy and resources. This trend needs to be checked.

Even in case of statutory backed Welfare Boards and Funds, there is considerable scope for rationalisation of contributions and benefits. There is also a need for bringing down the costs of administration. Professional management systems are also required for the management of funds and for strengthening the delivery mechanisms. The multiplicity of social security schemes initiated by the Government in India, lacking in an overall cohesion in design and management has often proved to be counterproductive to the economy. This has been again due to the high administrative costs of implementing them, which nearly negate the paltry benefits accruing to them, and the impact they have on the target population is also negligible.

Further, it has become the order of the day that in many States there is a misuse of these programmes either by the bureaucrats or by the politicians latest being allegation of misuse of National Rural Health Mission (NRHM)
Funds in Uttar Pradesh by the Ministers and officials to the tune of 28 crores.

Amid this growing conflicting trend there emerged a new legal regime historically for the first time in the Country to meet the much awaited aspirations of the workers in the informal sector, i.e. the Unorganised Workers Social Security Act, 2008. It is abundantly evident that the Government has been armed with findings of the High Power Commissions and sufficient statistics with regard to the plight of unorganised workers, the growing trend of expansion of their size and the level of their incomes. Even with all this information, unfortunately the much awaited legislation proved to be an inadequate legal instrument in meeting the real and long pending aspirations of the workers which is an equitable claim in the circumstances.

In 2007, the Unorganised Workers Social Security Bill was introduced in the Parliament. The Bill was subsequently referred before the Parliamentary Standing Committee on Labour (2007-08) for deliberation. The Committee after taking the views of the stake holders into consideration suggested certain far reaching changes to the Bill. However, the Government paid meager attention and passed the Bill with minor changes. The
legislation suffers from imperfection in respect of definition of unorganised sector, unorganised worker and also in the area of social security fund structure and with regard to confining extension of social security benefits to the employments specified in the Schedule I of the Act. The law needs a relook with regard to all these important aspects.

The conclusion that we draw from above analysis and discussion does not present an encouraging picture of social security in India. The empirical data reveal that extension of social security has not been in proportion to the economic development of the country. In absence of a national policy and a developmental and regulatory authority, the social security arrangements are characterized by multiplicity, overlapping and inadequacy. Extension of coverage through formal mechanisms that exists for organised sector workers and tax funded social assistance programmes have limited scope of extension because of schematic and budgetary constraints. The strategy to bridge the social security coverage has to mainly focus on alternative mechanisms that provide for programmes which are specific to the unorganised workers' needs, paying capacity and give value for their money.
10.2 Suggestions

The author in the background of exhaustive discussions made in the earlier Chapters of this Research makes the following suggestions for the purpose of ensuring a meaningful social security benefits regime for the unorganised workers in the country in an era wherein the reminiscence of *laissez faire* is making a beginning.

1. There is an urgent need to frame a National Social Security Policy. The policy should clearly spell out its intent and interventions and also the intended outcomes. Under the proposed policy a Central legislation need to be enacted which should clearly identify the different role players who will involve in designing, implementing, monitoring and evaluation of the social security programmes. The legislation should suggest appropriate institutional arrangements for social security programme implementation and a robust mechanism for its monitoring and evaluation.
2. A clear identification of the recognised social security benefits in the Statute itself, covering the situations of sickness, disablement, death, unemployment, maternity and old age need a prominent emphasis.

3. Taking into consideration the vast experience gained over the years of implementation of various labour legislations in the country, the threshold definitions such as unorganised sector and unorganised worker should be totally done away. Instead the approach of the National Commission on Labour (2002) can be adopted by listing the types of employments wherein the unorganised workers are employed or engaged.

4. The schedule containing the list of employments must be comprehensive with a power to the appropriate Government to include new employments or avocations from time to time in the context of rapid changes in the very structure of economy of the country.
5. It is time for totally doing away with the existing plethora of popular social welfare schemes having no statutory force and to make provision in the statute to cover the core social security benefits having uniform application to the entire unorganised sector workers.

6. There is a need to establish a National Social Security Authority, which should coordinate the implementation of all social security programmes. It should provide a regulatory framework for development and implementation of social security programmes. There is a need to define properly the powers and functions of the formulating and implementing authorities like National and State Social Security Boards under the frame work of the Statute rather leaving to the discretion of the appropriate Government.

7. The process of registration of unorganised workers must be a simple process available from the district level to local Panchayat level with the aid and assistance of the NGOs and Trade Unions working with the unorganised workers in the country.
8. The registration fee for a worker must be a one-time process with unique and portable registration number subject to a periodical nominal renewal fee.

9. There is a need for scientific method of quantification of various social security benefits as ensured under the legislation subject to the periodic review without linking the same to the date of registration, age etc.

10. A well-structured social security fund needs to be created within the framework of the statute by clearly defining the sources of the Fund. There shall be compulsory contribution from the State, employers and the workers. Of course, the difficulties can be visualised as far as the contributions from the workers. The same need to be approached in more scientific manner taking into consideration the experience of Tamil Nadu and Kerala.

11. The law must also evolve the in-built mechanism for the upgradation of the skills of the unorganised workers with a provision to conduct periodical training programmes at various levels for the workers to meet the future challenges in the competitive environment.
12. Unorganised worker whether a wage worker or self employed worker needs a special mention in the statute in respect of their skill up gradation training programmes with the active intervention of the research wing duly constituted under the statute to identify future challenges in this growing economic trend.

13. There is a need to have a specific mention with regard to the child care and educational development of the children of the unorganised workers so that the social and economic compulsions of the families must not lead to the involvement of children in the employment avocations.

14. The delivery of social security benefits certainly deserve a particular mention in the statute, devolving up to the grass root level with the intervention of NGOs and unions of workers in order to make the law more successful to meet the long pending aspirations of the unorganised workers in the country.

15. There is a need for the encouragement and supportive inputs for the formation of the unions in the unorganised sector in order to make the workers the sense of belongingness in getting the status
of enjoying various benefits under the law without being deprived.

There is a strong case for viewing social security system as an integral part of the overall economic, social, human resource and political management in India. This will require a change in the mindset of policy makers. As India addresses the challenges of the twenty-first century and manages its rise globally, constructing and implementing a modern social security system represents one of its major imperatives. A modern social security system can enable India to cushion the burden on workers. This is essential for India to emerge as a resilient economy and Welfare State.