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CHAPTER II
SOCIAL SECURITY MEASURES- AN OVERVIEW

2.1 INTRODUCTION AND CONCEPT OF SOCIAL SECURITY

Social security is the security that society furnishes through appropriate organization against certain risks to which its members are exposed. These risks are essentially contingencies against which the individual of small means cannot effectively provide by his own ability or foresight or even in private combination with the colleagues. It is mainly a 20th century concept. The state gives security to its citizens as a condition of human existence. Security to man against ravages of social conflicts and inadequacies is an important aspect of social justice. Social justice leads to social security. Both are the two sides of the same coin, they are inseparable. Unemployment benefits, maternity benefits, family allowances, old age grants, death grants, industrial injury benefits, nationalized health services, adventitious aids to weaker sections of the society are the social measures which every welfare state should endeavor to provide for its citizens as part of its duty and responsibility to uphold social justice. Like other socio-economic concepts, the concept of “social security” also varies from country to country with varying political ideologies. Social security in the socialist countries for example, implies complete protection to every citizen of the country form cradle to grave. In other countries which are relatively less regimented, social security refers to measures of
protection afforded to the needy citizens by means of schemes evolved by democratic processes consistent with resources of the state.

### 2.2 Various definitions of social security

In the words of Khanka, “Social security refers to protection provided by the society to its members against providential mishaps over which a person has no control. The underlying philosophy of social security is that the state shall make itself responsible for ensuring a minimum standard of material welfare to all its citizens on a basis wide enough to cover all the main contingencies of life. In other sense, social security is primarily an instrument of social and economic justice.”

While Dr. Gupta feels that, “Every one as a member of the society has the right to social security, and is entitled to realization through national efforts and international co-operation and in accordance with the organization and resources of each state of economic, social and cultural rights indispensable for his dignity and free development of his personality.”

“The security that society furnishes, remarks J.K. Singh, through appropriate organisations, against certain risks to which its members are exposed. These risks are essentially contingencies against which the individual of small

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means and meager resources cannot effectively provide by his own ability or foresight alone, or even in private combination with his fellows these contingencies that they imperil the ability of the working man to support himself and his dependants in health and decency”.

Accordingly, as the state is an association of citizens which exists for their general well being, it is proper that the state should promote social security, it is convenient to guard as social security services only such schemes as provide citizen with benefits designed to prevent and cure diseases, to support him when unable to earn and to restore him to gainful activity. Not all such measures, however, can be considered as affording security. For security is a state of mind as well as an objective fact. To enjoy security one must have confidence that the benefits will be available when required, and, in order to afford security the protection must be adequate in quantity and quality’.

Lord William Beveridge, a civil servant turned social service planner, defined social security and made a significant contribution towards conceptualizing social security. He says;

“The security of an income to take place of the earnings when they are interrupted by unemployment, sickness or accident, to provide for retirement through age, to provide against loss of support by the death of another person, and

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to meet exceptional expenditure, such as those connected with birth, death and marriage.”

Beveridge’s definition is comprehensive. Social security scheme is designed to provide against want, disease, ignorance, squalor and idleness. A worker is liable to fall victim to any of these insuperable risks and contingencies to understand properly the definition of Lord Beveridge it is worth while her to explain these five contingencies:

(a) **Want:** A worker always faces the rigorous of the demon of want for the basic theory of economic says human wants are unlimited. Relief against want means ensuring every citizen in return for service has sufficient for the subsistence of himself and his immediate dependants not only while he is working but also when he cannot work. His income must be sufficient for medical treatment, provision for shelter, clothes, food and other necessities.

(b) **Disease:** Disease which plagues every one plagues the workers more. The extensive use of complicated machinery, specialization on a large scale and hazardous nature of occupations sow the seeds of a number of industrial diseases which, in hire leads to a heavy loss of life in the modern industrial set up to combat which adequate provision must be made for the purpose.

(c) **Ignorance:** Ignorance is bliss, but not always. It gives rise to several social handicaps as ill-informed worker is surrounded by darkness and

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4 William Beveridge, *Report on social service and Allied Service*, 1942, p.120.
misunderstandings about his rights waste of talent and unhappiness of workers. Ignorance can be overcome by educational and political reforms and technical training.

(d) Squalor: Squalor, pollution and insanitation breed disease and ill health. It means all those evils which come through the unplanned and disorderly growth of cities, bearing in its train congestion, bad housing, and waste of energy of wage earners in travelling and of home makers in struggling with needless dirt and difficulties at home, needless destruction of natural and historic beauty. Fight against squalor means better location of industry and population and revolution in housing.

(e) Idleness: one has to work to maintain his family but it’s a regrettable fact that there are no sufficient employment opportunities. The right to work is not recognized by law, except perhaps superficially in the socialist countries where also it’s more in breech than observation. Abolition of idleness means ensuring every citizen a reasonable opportunity of productive service and of earning according to his service. It means maintenance of employments of labour and other resources. Idleness is the largest and fiercest of the five giants and the most important to easy realization of other aims thus depends mainly on the destruction of idleness.
**W.A.Robson** defines social security somewhat comprehensively as follows:

“Social security is a way of ensuring freedom from want or poverty which is one of the formidable obstacles in the way of progress. Social security implies insurance against those misfortunes to which an individual remains exposed even when the condition of society as a whole improves. It does not include the various measures for improving the condition of society- full employment, minimum wage factory laws, public health, housing, education and so forth.”

Taking note of environmental differences in various countries, **Maurice stack** defines social security thus;

“Each country must create, consume and build up the intellectual, moral and physical vigour of its active generation, prepare the way for its future generations, and support the generation that has been discharged from productive life. This is social security; a genuine and rational economy of human resources and values.”

A noted British Writer, Ronald Mendelson also expresses the view that social security system refers to:

‘Any form of organisation designed to ensure income security for the whole or for the substantial portion of community by means of compensation to persons

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for lack of income form their own efforts or those of their bread winner, and also of health services designed to restore the sufferer to full earning capacity and to prevent him and his dependents from incurring undue costs of maintenance of health.⁷

This definition seems to be based on the ILO recommendation on the income security (1951) noted above. It stresses on organizational element as also the need for the social security programme which must provide protection for the worker and his family against complete loss of income through old age, ill health and death. It appropriately lays emphasis on the effective and efficient health services adequate to restore the full earning capacity. The worker and his family or dependants should not be burdened with undue costs of maintenance of health.

2.3 Need for social security

Social Security protects not just the subscriber but also his/her entire family by giving benefit packages in financial security and health care. Social Security schemes are designed to guarantee at least long-term sustenance to families when the earning member retires, dies or suffers a disability. Thus the main strength of the Social Security system is that it acts as a facilitator - it helps people plan their own future through insurance and assistance. The success of Social Security

⁷ *Social Security in British Commonwealth*, p.15.
schemes however requires the active support and involvement of employees and employers.

The members of working class are a source of Social Security protection for themselves and their family, which their employers are responsible for providing adequate social security coverage to all workers. It would radically reduce poverty in old age protects the middle class against inflation and the fluctuation in the market.

That the need for social security is realized not only to afford the needy workers’ protection against the adversities of life, but also for the overall development of the state is well elucidated by a former veteran trade unionist, the President of India, V.V.Giri, He points out; “social security measures have two fold significance for every developing country. They constitute an important step toward the goal of a Welfare state, by improving living and working conditions and affording the people protection against the uncertainties of future. These measures are also important for every industrialisation programme, for not only to enable workers to become more efficient but they also reduce the wastage arising from industrial disputes. The man days lost on account of sickness and disability also constitute a heavy drain on the slender resources of the worker and on the industrial output of the country.”  

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8 V.V.GIRI, **Labour Problems in Indian Industry**, Asia Publishing House, Bombay, 1972, p. 271.
2.4 Objective of social security

Compensation, restoration and prevention are three major objectives of social security.

Compensation implies security of income. It is based on this consideration that during the period of contingency of risks, the individual and his/her family should not be subjected to a double calamity, thus by destitution and loss of health, limb, life or work. Restoration commutates cure of one’s sickness, reemployment so as to restore him/her to earlier condition. In a sense, it is an extension of compensation.

Prevention measures are directed to avoid the loss of productive capacity due to sickness, unemployment or invalidity to earn. In other words these measures are designed with the objectives of increasing the material, intellectual and moral well-being of the community by rendering available resources which are used up by avoidable disease and idleness.

2.5 Types of Social Security

Social security is a comprehensive term. All social security measures provided by the government are of two types. One is Social Assistance and the other is Social Insurance.
2.5.1 **Social Assistance**

Social assistance refers to the assistance rendered by the Government to the needy persons without asking them to make contributions to be entitled to get such assistance. In other words social assistance includes those benefits which are provided by the Government without any contribution from workers and employers. Workmen’s compensation, maternity benefits, old age pensions and the like are the examples of social assistance. Social assistance is a mechanism by means of which benefits in cash or kind are provided out of the general revenues of the state to those in acute need designed to enable them to live at a minimum subsistence standard directly or through some appropriate organizations as of right and subject to means test.

2.5.2 **Social Insurance**

Social insurance refers to a scheme of maintaining fund from the contributions made by the employees and employer, with or without a subsidy from the government. In other words, social insurance can be defined, as a device to provide benefits as of right for persons of small earnings, in amounts which combine the contributive efforts of the insured with subsidies from the employer and the Government.  

Examples of social insurance are provident fund and group insurance.

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According to Sir William Beveridge, already referred to, a comprehensive scheme of social security consists of social insurance for basic needs, social assistance for special requirements and voluntary insurance schemes in addition to basic needs. But the most outstanding feature of modern social security scheme lays emphasis on social insurance and social assistance as two relatively more important and effective techniques for social security. The two may be said to be the two faces of the same coin as both constitute the two integral techniques of any social security programme. The two need almost the similar policies, their functional differences apart. From the present day developments it is manifest that these two are coming closer to each other, and are very happily combined together to provide better, wide and meaningful protection against all possible social risks and economic insecurities. With this perspective in view it is appropriate here to explain the meaning, differences and the relationship between the two.

Social insurance is a modern idea though in some of its crude forms it might have seen in medieval craft and merchant guilds and friendly societies, in the 12th century, by way of attempts to meet the common risks of life by mutual action. However, the systematic beginning of social insurance can be traced back to German legislation on compulsory social insurance. Between 1883 and 1889, the German Government guided by no less a man than Bismarck, created the first system of social insurance.
German social insurance system was introduced in three successive stages. Sickness insurance came first in 1883; unemployment insurance followed in 1884, and finally came invalidity and old age insurance in 1889. The schemes applied compulsorily to wage earners in industry only. The example of Germany was later followed by Australia and, at a distance of thirty or forty years, by the United Kingdom and other countries or Europe, the U.S.S.R. and Japan. After the great depression of the 1930’s social insurance spread to Latin America as well as to the United States and Canada and last of all even to the some of the countries of Asia and Africa. After the end of Second World War, following the achievement of national independence the system of social insurance was generally adopted in the Third world countries. The invention of social insurance supplied the essential technique rendering possible the progressive realisation of social security. In India it was adopted with passage of ESI act, 1948. Social insurance implies the setting aside of some amount of money for purpose of making a provision against risks and emergencies.’

2.6 Social security as a part of labour welfare

‘Social security’ is intimately related to ‘Labour Welfare’. Labour welfare secures the workers and his family the fullest life in the comprehensive sense of the term. Social security covers the various socio-economic risks and contingencies in the life of individuals in the society through appropriate
organisations and methods. With reference to labour, social security is a specific form of labour welfare. They are necessarily inter-related in policies, plan and administration. Labour welfare and social security for labour have the same objectives but differ only in their respective approaches and emphasis. Labour welfare without social security or vice versa is inconceivable. Thus the labour welfare is a total concept and social security for labour is an integral part of it.

The famous writer Prof. M.V. Moorthy has the following opinion on the concept of labour welfare:

“Labour welfare work is associated, on negative side, with the counteracting of the baneful effects of the large-scale industrial system of production especially capitalistic, so far as India is concerned, on the personal, family and social life of the worker. On its positive side, it deals with the providing of opportunities of the workers and his family for a good life as understood in its most comprehensive sense. This personal objective alone is not adequate. Labour welfare is also fundamentally in the interest of the larger society as the health, happiness and efficiency of each individual means the general well being of all. Taken thus labour welfare is an essential part of social welfare. It means the adjustment of the labour’s work life around. We are therefore, justified in stating that labor welfare is a cumulative and total concept that could be realized
in the three dimensional and related spheres of the individual, the family and the community.”

2.7 Social security is a basic human right

The right to social security has been recognized in a number of countries as a right protected by the Constitution itself; this is, for instance, the case with the German and Brazilian Constitutions everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. Motherhood and childhood are entitled to special care and assistance.

The universal, regional and national perspectives certainly reflect what has been Developed and promoted within the ILO itself. The ILO Constitution, the Declaration of Philadelphia and – more recently – the resolution and conclusions concerning social security, adopted at the 89th Session of the Conference in 2001, have all confirmed the Dedication of ILO member States to social security as a fundamental basic human right and their commitment to “… the extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care”.

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2.8 Social security – Ahead of public policy

From the very beginning the social security had been a part of public policy directly or indirectly. With the assumption of welfare functions by the state all over the world the social security has come to occupy a very significant place in public policy. In fact many issues and circumstances of social security lead to invoking of public policy which is a main thing not only for evolving a sound structure and system of social security but also for its feeding back from time to time through legislative social, economic and financial administrative, organizational and other measures.

The traces of social security through public policy are available in the ‘poor law system’ of the west and in the concept of ‘state responsibility’ for social security abundantly enjoyed by Kautilaya and Manu in India. In the 19th century the public policy on social security was guided and formulated on the edifice of laissez faire philosophy or individualism, which stood for least interference and governance by the state, especially in socio-economic behaviour and tendencies in the society. Individualism rather created hindrances and discouraged public action. However, the need to adopt social security as part of public policy on the permanent and regular basis arose in the circumstances and conditions created by the world wide depression in the thirties of the past century. It was responsible for involuntary unemployment, suffering of severe hardships and privation by workers and their families, concentration of wealth and various socio economic imbalances
in many countries of the world. The effects of depression were more severe in the U.S.A Canada and Germany as compared to Britain, because it could organize ‘a widespread system of unemployment insurance’. But by the time underdeveloped countries entered the process of industrialization, the world wide acceptance and gradual emergence of the welfare face of the state facilitated the adoption of social security as a part of public policy.

In the forties of the past century thinking has gathered momentum that a state has to intervene in the economic affairs of the society both in the interest of economic growth and to protect the interest of the weaker section of the society. Thus in the advanced countries social security became a part of public policy to mitigate the evil effects of depression and in the underdeveloped countries it formed a part of public policy to ensure smooth rate of economic growth and to secure socio economic justice to individuals in the society. But today public policy of every society aims at evolution of comprehensive and permanent system of social security because of global awareness of international standards for it, various institutional arrangements and the very development of the concept of social security itself. The states have increasingly been recognizing the economic and humanitarian value of social security and they are increasingly spending a part on social security has been expressed by J.H.Richardson in the following words;

“Social security is a major feature of public social policy today. From tentative beginnings in a few countries in the early decades of present century it
has rapidly become a big factor in the lives of many millions of people throughout the world”

2.9 Global developments and trends in social security

Social security is increasingly becoming a global phenomenon 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 own social security institutions in accord once with its own constitutional framework, political history, the socio-psychological factors of importance to its people, the extent of private methods of security, the relevance of economic conditions prevalent in the country and other related institutional factors. There may be differences, therefore, in the visions for and approaches to social security objectives. At present, 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 reasons behind its wide acceptance and ready adaptability are that it is based on human dignity and ideals of social justice. It has also been recognized as an incidence of human rights. Article 22 of the Declaration of human rights lays

an added stress on right to social security. It is desired that it must be available to everyone in the society through national efforts and international co-operation programmes. The social security idea is well received throughout the world; and essential principles of social security system have come to acquire a global character. The global perspective of social security impels the researcher to examine briefly the changing dimensions and emerging patterns of social security in many developed and developing countries of the world. In a small work like this it is not feasible to have any comprehensive view. Nevertheless, an attempt, however imperfect, is made to appreciate certain issues, trends and developments with coverage, methods, new techniques of management, institutional arrangements and so on.

A social security program was adopted first in Germany in the 1880s, when Chancellor Otto von Bismarck advocated social legislation not only in order to benefit the workers but also to forestall the program of the socialists and gain the support of the workers for his own party. Legislation setting up compulsory sickness insurance, for which the worker paid two thirds of the cost and the employer the remaining one third, was passed in Germany in 1883. Compulsory old-age insurance, the cost of which the employee, employer, and government shared, was adopted in 1889; unemployment insurance legislation, however, was not passed until 1927. As economic insecurity among workers in the highly industrialized countries spread, an increasing number of social security programs
were enacted. In Great Britain, the National Insurance Act, devised by David Lloyd George, was passed in 1911, and a compulsory unemployment insurance program as well as old-age insurance and sickness insurance programs was established. The unemployment insurance system excluded many workers, notably government employees, nurses, casual workers, and those who earned over £250 per annum. Survivors insurance program was adopted (1925); in 1942, Parliament was presented with a plan, by Sir William Henry Beveridge, for a more expanded social security program, much of which was enacted after World War II.

France adopted in 1905 a program of voluntary unemployment insurance and in 1928 made insurance plans for old age and sickness mandatory. Meanwhile, diverse social security programs were adopted throughout Europe, differing from country to country as to the kinds of insurance instituted, the categories of workers eligible, the proportions paid by employee, employer, and government, the conditions for receipt of benefits, the amounts of the benefits, and finally in the overall effects of the programs. In 1922, the Soviet Union adopted comprehensive social security plans as part of their socialist economy. Chile became (1924) the first Latin American country to adopt a social security program. Only one in five people in the world has adequate social security coverage. The other four need it too, but somehow manage without. Governments, employers' and workers' organizations considered that the highest priority should be given to "policies and
initiatives that bring social security to those who were not covered by existing systems".

### 2.9.1 List of international organizations for social security

1. American Commission on Organization and Administrative Systems (ACOAS)
2. Federación Internacional de Administradoras de Fondos de Pensiones--International Federation of Pension Fund Management Companies
3. Foundation for International Studies on Social Security
4. Interamerican Conference on Social Security--Conferencia Interamericana de Seguridad Social (CISS)
5. Interamerican Center for Social Security Studies--Centro Interamericano de Estudios de Seguridad Social (CIESS)
7. International Labor Organization (ILO)
8. International Organization for Pension Supervisors (IOPS)
9. International Social Security Association (ISSA)
10. Mutual Information System on Social Protection in the EU Member States and the EEA (MISSOC)
11. Organización Iberoamericana de Seguridad Social (OISS)--Iberoamerican Social Security Organization
2.10 Institutional arrangements for development of social security at international level

Though a repetition it’s important to insist that the social security today is a well established and internationally recognized phenomenon. The credit for this goes to the institutional arrangement of social security at international level which 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 Organisation (ILO) and the International Social Security Association (ISSA), contribute mainly for the development of social security at international level.

2.10.1 International Labour Organisation (ILO)

International Labour Organisation founded in 1919 with the primary objective of promoting social justice and improving the living the working conditions of workers all over the world, has been aware, since its inception, of its role as a comprehensive social security agency in the achievement of its announced objectives, which include “The protection of the worker against sickness, disease and injury arising out of his employment, the protection of
children, young persons and women, provision for old age and injury.” These find a place among the specific measures proposed in the preamble to the constitution of the ILO.

The principal instruments applied by the ILO for realization of its objectives in social security include Standard Setting, Research and Studies and Technical Cooperation. All these three instruments are closely interrelated and mutually reinforcing.

The research and studies undertaken by the ILO provide the foundation for the ILO’s standard-setting and technical co-operation activities. An important research activity relates to the continuing comparative examination of the factual basis of social security law and practice throughout the world. The periodical ILO inquiry into the “Cost of Social Security” undertaken since 1949, and the publication of the results there of have a two-fold purpose. First, it attempts to provide a consolidated statement of the financial operations of all social security schemes existing in industrial and developing countries, according to a common working definition of “Social Security”, and to a uniform pattern of analysis. The second objective is to provide an international comparison of the data by determining the trends in social security costs for various countries during the period covered by the successive inquiries, and by comparing the distribution of the cost of social security between different sources of revenue and between different types of social security scheme. The research efforts have also devoted to
a number of technical problems which are of concern to a great number of
countries especially in the developing world, e.g., the planning and
implementation of medical care schemes, the extension of social security to the
previously uncovered sections of the population, in particular, to vulnerable
groups, such as rural and migrant workers and financial and actuarial organization
of social security schemes.

From its earliest days the ILO. has carried out technical co-operation
activities in the field of social security. It is true that in the period preceding the
Second World War such activities were rather modest, but they were, nevertheless,
significant, permitting the ILO. to face the practical problems posed by the
introduction and modifications of social security schemes in various parts of the
world. Since the last war and, in particular, the coming into being of the United
Nations Expanded Programme of Technical Assistance, technical co-operation
activities by the ILO. in the field of social security have been greatly intensified.
With all the new nations acceding to political and national independence, the need
for technical cooperation has enormously increased and the ILO. has been called
upon by practically all these nations to co-operate in the solution of their social
security problems.

The ILO. employs three main methods to conduct its operational
activities to provide technical cooperation, namely:
(1) The assignment of experts, including regional advisers to the country concerned;

(2) The grant of fellowships for training abroad;

(3) The organization of regional seminars or training courses to enable participants to study various aspects of social security with the help of international and national experts.

2.10.2 International Social Security Association (ISSA)

ISSA is a more specialized international institution working for the global development of social security. It was established in 1927, enrolling members from Government departments. The aim of the Association is to cooperate, at international level in protecting, promoting and developing social security throughout the world.

The Association’s activities fall mainly into the following five heads:

(a) Organizing international technical meetings, roundtable discussions and seminars on social security. The technical work consists of technical information service and the Central technical Committees, in which problems of the principal branches or aspects of social security schemes are examined and discussed.

(b) Exchange of information, comparison of experience and mutual technical assistance among its members. It is through regional activities, which are
undertaken in relation to particular needs of the member organizations, which are divided for the purpose into four regions, namely Africa, America, Asia and Europe.

(c) Research and investigation into social security questions. It includes the organization of research meetings, inquiries and studies concerning social security problems.

(d) Publication and distribution of documentation on social security. The ISSA publishes the Quarterly Review in English, French and German, containing articles, studies and the latest information on the development of social insurance throughout the world. The ‘World Bibliography of social security’ is published quarterly.

Another Publication, “Current Research in Social Security” is published every three years. It contains summaries of research projects in social security: the summaries are in original language of the project (English, French, German and Spanish). An ‘Automatic Data Processing Information Bulletin’ is published three times in a year in English, French, German and Spanish. Yet one other important series: ‘Social Security Documentation’ the African Series (in English and French); ‘Social Security Documentation’- European Series (English, French, German and Spanish); the African News Sheet (in English and French); the Asian News Sheet (in English) and a collection called Studies and Research (in
English and French). The Association also publishes technical reports (mainly reports adopted by the General Assembly) on various social security questions.

(e) Collaboration with other international organizations in the field of social security.

2.11 Social security measures in India

In the pre-industrial society, security against contingencies was provided by the institutions like joint family, caste, guild, village community, religious institutions and the like. But the industrial revolution changed the nature of insecurity as well as the remedies.

The introduction of social security measures in India is a recent one. In fact, the making of climate for industrial security in India started from the 10th session of the International Labour Conference held in 1927 in which two conventions and Recommendations were adopted for social security in the countries.

These were discussed thread bare in the Indian Legislative Assembly in 1928. However, the Assembly resolved that the introduction of any comprehensive scheme for social security on the lines proposed by the ILO was impracticable under the conditions then prevailing in the country. Later, the Preparatory Asian Regional Labour Conference, held in New Delhi in 1947 adopted a comprehensive resolution on social security implementation in various
Asian countries. Following this resolution, the Employees’ State Insurance Act, 1948 was enacted in India to mark the beginning of the social security measures in the country.

India as a ‘Welfare State’ is expected to take care of the citizens from cradle to grave’. It is this realization that motivates the constitution of India to lay down that the State shall, within the limits of its resources and development, make effective provisions for securing public assistance in the event of unemployment, old age, sickness, and disablement. This constitutional obligation has served as epoch making in India’s efforts in the field of social security provisions in the country. Since then, various social security schemes have been introduced of which old-age assistance schemes are the most important. It was the Government of Uttar Pradesh that introduced old-age assistance scheme for the first time in 1957. The scheme was designed to pay a monthly benefit to the needy individuals over the age of 70 years who had no one to support them. Later on, similar schemes were introduced in Andhra Pradesh in 1961, Tamil Nadu in 1962, Punjab and Haryana in 1963 and subsequently in many other states. The eligibility conditions to avail these benefits and levels of benefits differ across the States. Subsequently, with increasing need for social security along with the increasing levels of national development, the Government made various legislative provisions to afford to the needy people/workers protection against uncertainties in their lives.
2.11.1 Articulation of social security concept in directive principles of state policy.

The directive principles of state policy have been incorporated in Part IV of our constitution by its framers after a thorough study and analysis of corresponding Irish and Spanish models and the socio economic needs of the Indian People. They manifest that Indian people have to achieve economic independence and adopt democracy as a way of life through welfarism and positive action of the state.

“The State was to safeguard the interest of ‘individual worker’ ensuring that ‘suitable legislation’ should secure them living wage, healthy conditions. Limited hours of labour and protections from ‘the economic consequences of old age, sickness and unemployment’, women and children were also to be protected in various ways and accorded various benefits.”

As a matter of fact without faithfully implementing the ‘Directive Principles of State Policy’ it is not possible to achieve welfare state as contemplated by the Constitution.

The Welfare State guarantees a minimum standard of subsistence without removing incentives to personal enterprise and it brings about a limited redistribution of income by means of graduated taxation, yet it does not pretend to

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12 The Indian constitution – Cornerstone of a Nation, p.56.
establish literal economic equality among its citizens. All are assured of adequate help in case of need, whether need is due to illness, old age, unemployment or any other cause or contingency.

2.12 Evolution of social security legislation in India

The edifice of social security benefits has been erected on the bricks of legislation with a sound base and follows up measures. But the legislative action covered various benefits in a gradual manner and in tune with the pace of industrial growth and social-economic needs and also in response to forces calling for public action to develop a social security system. The legislative package for social security is contained in the various enactments such as the Workmen Compensation Act, 1923; the ESI Act, 1948; the E.P.F. Act, 1952; the Maternity Benefit Act, 1961; and the Payment of Gratuity Act, 1972. Each enactment prescribes for the distinct social security benefit in order to meet or combat against a social risk to which employed persons or other dependents are exposed. The overall perspective of all social security enactments is that cumulatively they constitute a ‘social security system’ within the framework of socio-economic values set in our Constitution.

The first in the series of social security legislation was the Workmen Compensation Act, 1923. This was based on the principle of occupational risk and employer’s liability and provided for overthrowing the age long and absolute
‘Common Law System’ of paying compensation to the workmen injured in industrial accident. This piece of legislation was the result of the recommendations of the broad based committee consisted of the members of the Legislative Assembly, medical profession, employers and insurance experts. Though Government of India examined the ILO, convention on Employment Injuries (1921) and subsequent to reference to select committee resolved that the convention could not be ratified in the original form. But the public opinion in favour of protection against employment injury was so strong that the above mentioned broad based committee was appointed. Consequently, the Workmen Compensation Act, 1923 was passed; which came into force from 1st July, 1924. The statement of objects and reasons to the Bill stated that the general principles of workmen compensation commanded almost universal acceptance and India was perhaps alone amongst civilized countries which was without legislation embodying these principles. For a number of years the more generous employers were in the habit of giving compensation voluntarily; but that practice was not common. Hence this legislation provided for compensation on personal injury from the industrial accident and set up special machinery to deal with the claims of compensation under the Act. Though the compensation on employment injury was also provided by Indian Fatal Accidents Act, 1855, because of practical non-utility the enactment was non-effective as a social security measure. The Workmen
Compensation Act, 1923 became an important means in the system of social security for labour for about a quarter century.

During this period the international standards and evolutionary process of comprehensive social security systems in Western societies aroused consciousness in all circles concerned for the better and improved measures of social security through legislative process. In the thirties of the last century the then Provincial Governments of British India initiated the process in the direction by appointing committees. Bihar Labour Enquiry Committee, 1938, for example and Bombay Textile Labour Enquiry Committee, 1939 stressed the need for a compulsory and contributory sickness insurance scheme.

The Royal Commission in labour also emphasized the need for protecting workers during sickness and recommended a health insurance for them on experimental basis in the first instance. The matter was subsequently discussed at Labour Ministers’ Conference held in Delhi in 1940, 1941 and 1942. Though all this aroused enough consciousness for improving social security, the still more important and rather decisive step was the appointment of Professor B.P. Adarkar in March 1943 to frame a scheme of social insurance for industrial workers. A unanimous resolution passed in the Tripartite Labour Conference in September 1943, paved the way for the appointment of Labour Investigation Committee under the chairmanship of Dr.V.Roge by the government of India to investigate risks. Again the Government of India appointed in October 1943 a Health Survey
and Development Committee under the Chairmanship of Sir Joseph Bhore to prepare a plan for medical care and health services. Professor Adarkar submitted his report on 15th August, 1944 and recommended a compulsory contributory health insurance scheme for industrial workers based on the ILO conventions. His recommendations were further reviewed by the two ILO experts, M. Stack and R. Rao.

The cumulative effect of all these exercises was the drafting of Workmen State Insurance Bill, 1946 which is said to be the beginning of a scheme of social security on the terms followed in industrially advanced countries. The bill was referred to Select Committee for modification and on recommendation of the committee the word ‘employees’ was inserted and for the administration of the scheme a Corporation was proposed to be constituted instead of Board. Finally, the Act was passed on 2nd April, 1948 and received the assent of Governor General on 19th April, 1948. ESI Act thus opened a new chapter in the history of social security law in the country and is considered to be an important landmark in the evolution of the system of social security. This Act has made a considerable improvement on the Workmen Compensation Act, 1923. The benefits under both the Acts were mutually exclusive except to the extent the Workmen Compensation Act, 1923, stands modified by the Employees’ State Insurance Act, 1948. Apart from the compensation on employment injury, the latter Act also provides for medical care benefit, sickness benefit and the maternity benefit on compulsory
contributory principle. Thus the Act has added new benefits in the social security system. The medical care benefit is also provided by Coal Mines Welfare Fund Act, 1947; the Plantation Labour Act, 1951; The Lime Stone and Dolomite Labour Welfare Fund Act, 1972; the Iron Ore Mines and Manganese Ore Mines Labour Welfare Fund Act, 1976; the Bidi Workers’ Welfare Fund Act, 1976; and the Dock Workers (Regulation of Employment) Act, 1948. But these enactments are not of much avail; and the ESI Act, 1948 dominates the medical benefit scheme. With reference to social security our Constitution stresses in its Part IV the socio-economic justice and public assistance in cases of unemployment, old age, sickness and disablement and in other cases of undeserved want. The distribution of power under Indian branded federalism determined jurisdiction of States and Central Government for legislative action on social security benefits. All this provided broad guidelines and policy objectives for enacting legislation in order to evolving a sound structure of social security incorporating the individual liberties and democratic values. This perspective subsequent legislative action improved the existing social security law in substance and effectiveness and added new enactments to provide new or additional benefits.

The Constitution envisages a welfare state which is to give equal opportunity to every citizen and freedom from fear-fear of economic ruin which may involve physical and moral ruin. In pursuance of this, insurance against unemployment was provided in 1953 in the form of layoff and retrenchment
compensation under the Industrial Disputes Act, 1947. But, this was on a very limited scale. Again, the old age and retirement benefits and survivors’ benefits were provided through legislative action in the form of P.F. Schemes and Gratuity Scheme. While P.F. Schemes were common in some Government employments and with enlightened employers the first legislative measure to cover industrial workers was the Coal Mines Provident Fund and Bonus Schemes Act, 1948. The successful working of this Act and pressing demand for extending P.F. Scheme to industrial workers were responsible for the enactment of E.P.F. Act, 1952. It was remarked in the ‘Statement of Object and Reasons of this Bill that the question of making some provision for the future of industrial worker after his retirement or his dependents was long due and for that contributory P.F. Scheme would be ideal one in Indian conditions, because, pension scheme of the nature obtaining in industrially advanced countries must be costly. Later in the year 1955, the Assam Tea Plantation Provident Fund Act covering tea plantations was enacted by the Assam legislature. To provide a similar benefit to seamen working on ships, parliament passed the Seaman’s Provident Fund Act, 1966. By gradual extension of their scope and coverage the schemes have been made applicable to a fairly wide range of employees in factories, mines, plantations and other classes of establishments contain parallel provisions. Then in the last series of social security legislation is the Payment of Gratuity Act, 1972 which is based on the principle of employer’s liability, and a kind of old age and survivors’ benefit. An attempt is
here made to analyze various benefits provided by social security structure in India and to note them and explain clearly the legislative trends on them.

2.13 General legislative trends

The benefits based on the former principles are compensation on personal injury under workmen Compensation Act, 1923, the lay off and retrenchment compensation under the Industrial Disputes Act, 1947, the maternity benefit under Maternity Benefit Act, 1961 and the old age and survivors benefit under the Payment of Gratuity Act, 1972. The benefits based on the latter principle are compensation on employment injury medical care benefit, sickness benefit, funeral benefit, maternity benefit and dependants benefit under the ESI. Act, 1948. However, the general legislative trends on social security can be summarized as follows:

(1) It attempts to implement the standards set by the ILO.

(2) It extends new benefits to workers either through fresh enactments or through relevant amendments in the existing enactments. New and added benefits, for example, are pension, gratuity, medical care and sickness benefit.

(3) The primitive form of compensation for permanent incapacity was lumpsum amount. The recent trend of legislation is that under great majority of employment injury schemes nowadays, the normal form of the permanent incapacity benefit is a periodical payment proportionate to the reduction of earning
capacity and the average earnings of victims during the year preceding the accident.

(4) The tendency of legislation has been to secure wide coverage, though a large section of population is outside the scope of social security schemes.

(5) The whole gamut of social security legislation was evolved within the framework of the principles and guidelines enshrined in the supreme law of the country, namely Constitutional Law. Through this the ideal of Welfare State and that of securing socio-economic justice were attempted to be translated into practice.

(6) It evolved effective machinery for the implementation of social security measures and schemes. Along with the machinery the penalties were also provided for the better and forceful implementation of social security measures.

(7) Legislation encouraged the employer to take active interest in social security schemes by providing for exemptions in certain cases. Their legitimate business interests and rights were protected by the legislation.

(8) The trend has been to give relief to the employers through improved and effective legislation. Introduction of ESI. Act, for example, was a great relief to the employers. They were required to bear the whole financial burden of compensation under Workmen Compensation Act. This apart the shift to social insurance is helping the formulation of sound social security schemes.
(9) There has been improvement in the existing benefits or higher levels of benefits have been provided. By virtue of Amendment Act of 1975, for example, the amount of compensation was increased, certain new facilities of loan and life insurance were provided under the E.P.F. Act.

(10) There has been benefit erosion by inflation for which the legislation provided from time to time.

(11) To rationalize and simplify various schemes of social security keep in view the needs of society and objectives of economic development. The transitory provisions under ESI. Act, for example, to keep the steady pace of economic development and the balanced regional economic growth.

(12) In all social security legislations the Government has been armed with wide powers to extend the coverage of various enactments, to exempt certain establishments in view of their importance in the economy and the stage of their growth, and also there is a provision for removal of doubt in case of confusion and the gap of understanding.

2.14 Various Social security legislations in India – An Over view

The Social Security Laws in India at present can be broadly divided into two categories, namely, the contributory and the non-contributory. The contributory laws are those which provide for financing of the social security programmes by contributions paid by workers and employers and in some cases
supplemented by contributions/grants from the Government. The important contributory schemes include the Employees State Insurance Act, 1948 and the Provident Fund, Pension and Deposit Linked Insurance Schemes framed under the Employees’ Provident Funds and Miscellaneous Provisions Act, 1948. The three major non-contributory laws are the Workmen’s Compensation Act, 1923, the Maternity Benefit Act, 1961 and the Payment of Gratuity Act, 1972.

The government of India has made the various enactments from time to time. The important among them are:

2.14.1 The Workmen’s Compensation Act, 1923
2.14.2 The Employees’ State Insurance Act, 1948
2.14.3 The Employees’ Provident Funds and Miscellaneous Provisions Act, 1952
2.14.4 The Maternity Benefit Act, 1961
2.14.5 The Payment of Gratuity Act, 1972

The social security provisions in these Acts are now briefly outlined as under:

**2.14.1 The Workmen’s Compensation Act, 1923**

The Workmen’s Compensation Act is the oldest of the social security legislations intended for the welfare of workers. At present, the Act is applicable to workers employed in 50 hazardous employment/occupations. When it was originally enacted there was a wage ceiling for coverage under the Act. However,
it has been subsequently removed and the provisions of this Act are now applicable to all the workers including casual workers employed in industries and other work-places. This Act takes care of two contingencies namely disablement due to employment injury and death due to employment injury. A lumpsum compensation amount is paid to the disabled worker or the dependants as the case may be during both the contingencies. The maximum amount of compensation for disablement is Rs.5.48 lakhs and for death is Rs. 4.56 lakhs. In case of temporary disablement monthly payments are made @ 50% of wages up to 5 years.

It is an employer’s liability scheme, which mainly relies upon the good behaviour of employers. Where the employers are enlightened or where there are powerful trade unions, the rights of the workers are protected and the compensations are paid as per the Act. In all other cases there is a tendency to pay a nominal compensation or even to deny it. In such cases the only remedy available to the workers or the dependants is to approach the State Labour Department concerned and seek its intervention which goes up to arbitration which is a time consuming process. Even after arbitration there is no way by which the State authorities are in a position to enforce the payment of compensation. Very often, it is seen that small employers even with good intentions do not have adequate funds to discharge their liabilities.

The lumpsum payment, which the worker or the dependant receives, does not provide real social security. In our social conditions there is a tendency to spend
the money immediately even on non-essential items. As a result the lumpsum amount paid is spent within a short time and the worker or the dependants are again in dire financial straits. Even in cases where they manage to retain the money, due to lack of knowledge about proper investment, they do not get adequate returns. With the cost of living going up year after year the standard of living deteriorates due to reduced availability of resources. In the case of periodical pensions, there is a system of indexing, which takes care of the adverse effect of increase in cost of living to a large extent. Such a provision is not available in the Workmen’s Compensation Act.

The Workmen’s Compensation Act is not applicable to those workers who are covered by the ESI Act. This Act is the first planned step in the field of social security in India. The main objective of the Act is to ensure compensation to workers for accidents occurred during the course of employment. The main features of the Act are as follows:

This act covers workers employed in factories, mines, plantations, mechanically propelled vehicles, construction works, railways, ships, circus and other hazardous occupations specified in schedule II of the Act. It does not apply to the Armed Forces, casual workers and workers covered by the Employee’s State Insurance Act, 1948.

The Act is administered by the State Government by appointing commissioners for this purpose under Section 20 of the Act. The Act also
specifies that in case a workman contracts any occupational disease, which is specified in its third schedule, such disease shall ordinarily, be treated as an employment injury arising out of and in the course of employment.

The compensation is paid depending upon the type of injury. In case of permanent and total disablement, the rate of compensation varies between Rs.60,000 to Rs.2.74 lakhs. In case of partial disablement, compensation at the rate of 50 percent of wages is payable for a maximum period of 5 years. There is no age limit to the Act. In case of injuries causing death, the rate of compensation varies from Rs.50,000 to Rs.2.28 lakhs depending upon the salary and wage of the worker at the time of his/her death.

The employer is under obligation to make the payment of compensation within one month from the date on which it falls due. In case of default in paying the compensation due under the Act, the commissioner may direct for recovery of the amounts of arrears with interest at 12% p.a. on the amount due. If, in the opinion of the commissioner, delay is without convincing justification a further due not exceeding at 50% of such amount by way of penalty may also be recovered from the employer.


The main objective of this Act is to provide social insurance for workers. It is a contributory and compulsory health insurance scheme that provides medical
facilities and unemployment insurance to industrial workers for the period of their illness.

The Act is administered by the Employees State Insurance (ESI) Corporation, an autonomous body of 40 persons consisting of representatives of the Central and State Governments, employers, employees, medical professionals and the parliament.

Under this Act, an insured is entitled to receive the following types of benefits:

(i) Medical Benefit: An insured or a member of his/her family requiring medical help is entitled to receive medical facility free of charge in a hospital either run by the ESI Corporation or by any other agency.

(ii) Sickness Benefit: An insured worker in case of certified sickness is entitled to receive cash payment for a maximum period of 91 days in any continuous period of one year. The daily rate of sickness benefit is calculated as half of average daily wages. The insured worker should be under medical treatment at a dispensary of other medical maintained by the corporation.

(iii) Maternity Benefit: An insured woman is entitled to receive cash payment calculated at a full average wage for a period of 12 weeks of which not more than 6 weeks shall precede the expected date of her confinement.
(iv) Disablement Benefit: This benefit is entitled to insured worker in case of industrial accidents and injury. In case of temporary disablement the worker is paid 70 per cent of wages during the period of disablement. In case of permanent partial disablement, the insured individual is entitled to a cash benefit for life to be paid at a percentage of the full rate. In case of permanent total disablement, 70 percent of the wages is paid as monthly pension to the worker for life.

(v) Dependents’ Benefit: This benefit is available to the dependents of a deceased worker due to industrial accident or injury. The rate of benefit differs depending upon the relationship received during her lifetime or until remarriage, an amount equivalent to three-fifths of the full rate.

2.14.3 The Employee’s Provident Funds and Miscellaneous Provisions Act, 1952

The main object of this Act is to afford the retired workers financial security by way of provident fund, family pension, and deposit linked insurance. The Act is characterized by the following features.

The Employees’ Provident Fund Act was passed in 1952 to provide for institution of provident fund for the employees of factories and other establishments. The Scheme came into force from 1st November 1952.
The Scheme is basically meant for security of workers after retirement. It provides for lumpsum payment of provident fund, monthly pension and deposit linked insurance. The basic rate of provident fund contribution is 10% of basic wage/salary and the higher rate is 12%. The basic rate of 10% applicable to 5 main industries namely, beedi, brick, jute, coir and guargum for the rest it is 12%. Out of the employer’s share of contribution, a sum equal to 8.33% of wages is diverted to pension fund account while the balance of employer’s share of contribution and employees’ share of contribution into is credited to the provident fund account.

The accumulation in the provident fund account of a member becomes payable for final settlement under following situations:

a. On retirement from service after attaining the specified age.
b. On retirement as a result of total and permanent disablement rendering the worker incapable of working.
c. Immediately before migration from India for permanent settlement abroad for taking up employment abroad;
d. Termination of service upon mass or individual retrenchment;
e. Termination of service under a voluntary retirement scheme; and
f. Termination of job and remaining unemployed for over two months or leaving the job from a covered establishment and joining an establishment not covered by Provident Fund (P.F).
The Act covers workers employed in a factory of any industry specified in Schedule in which 20 or more workers are employed or which the Central Government notifies in its official Gazette. The Act does not apply to co-operative societies employing less than 50 persons and working without the aid of power. It also does not apply to those new establishments till they become 3 years old.

The Act is administered by Tripartile Central Board of Trustees represented by employers, employees and the Government.

The Act provides 3 types of PF benefits:

(a) Provident Fund: Under this benefit, an employee can avail non-refundable withdrawal or take advances from the Provident Fund Account for various purposes. On superannuation, the employee gets the full balance at his credit with interest.

(b) Pension: Under the new pension scheme which has come into force from 16-11-1995 replacing the 1971 scheme, several types of pension are available to an employee and his/her dependents.

(c) Deposit Linked Insurance: Under the deposit-linked insurance scheme, an amount equal to the average balance in the Provident Fund Account of the deceased employee during the preceding year subject to a maximum of Rs.35,000 is granted to his/her nominee/legal heir.
2.14.4 The Maternity Benefit Act, 1961

This Act is applicable to every establishment being a factory, plantation or mine and to every shop or establishment in which 10 or more persons are employed. The State Governments may, with the approval of the Central Government, declare that all or, any of the provisions of the Act shall apply also to any other establishments or class of establishment, industrial, commercial, agricultural or otherwise.

Under this Act female workers are entitled for paid holidays not exceeding 12 weeks in the case of maternity and during this period they are eligible to receive full wages. There is also provision for pre-natal confinement and post-natal care free of charge failing which employer is liable to pay medical bonus of Rs.250/-. In the case of miscarriage, maternity leave is available for a period not exceeding six weeks. There is also provision for sick leave for a period not exceeding one month in case of sickness arising out of maternity.

This Act is also based on employer’s liabilities. Like Workmen’s Compensation Act, the actual implementation of the benefit provisions of this Act also depends largely upon the good will of the employer. Here also the implementation is not satisfactory. Where employers are enlightened or where there are powerful trade unions, the rights of the workers are protected and the compensations are paid as per the law. In all other cases, it is very difficult for the female workers to take advantage of the provisions of this Act. Not infrequently
the female workers are discharged even well before their due date of confinement and they are not paid anything till they are fit enough to resume their duties.

The main object of this Act is to regulate women employment in industrial establishments for certain specified period before and after childbirth.

The Act is applicable to all establishments not covered under the Employee’s State Insurance Act, 1948.

The Act is administered by the Employee’s State Insurance (ESI) Corporation.

Under the Act, a woman worker is entitled to receive the payment for maternity benefit at the rate of average daily wages for a total period of 12 weeks. With effect from 1st February 1996, a woman worker is entitled to grant of leave with wages for a maximum period of one month in cases of illness arising out of tubectomy. Women workers who will undergo tubectomy operation will get two weeks’ leave.

2.14.5 The Payment of Gratuity Act, 1972

Extending to whole of India, the Act applies to factories, mines, oil fields, plantations, ports, railway companies, and to shops and establishment employing ten or more persons. The Act came into force on 16 September 1972. Other establishments included by notification are Motor Transport, Clubs, Chambers of
Commerce & Industry, Inland Water Transport, Local Bodies and Solicitors Office.

This Act provides for payment of lumpsum gratuity to the employees. Under the Scheme Gratuity is payable @ 15 day's wages for every completed year of service subject to monetary ceiling of Rs.3.50 lakh. In case of seasonal establishments gratuity is payable @ 7 day’s wages. The gratuity is payable in the contingency of superannuation, retirement, resignation, death or disablement due to accident or disease subject to completion of 5 years continuous service. Under the Act, on completion of 5 years of service, the employees are entitled to gratuity payable at the rate of 15 days wages for each completed year of service subject to a maximum of Rs. 3.5 lakhs with effect from September 1997. The wage ceiling has been removed with effect from 24th May 1994.

The condition is however, not applicable in case of death or disablement. Like Workmen’s Compensation Act and Maternity Benefit Act the Payment of Gratuity Act is also an employers’ liability scheme. In the absence of proper enforcement, many of the provisions of this Act also are more in breach than observation. The financial constraints of small employers also add to the problems in proper enforcement.

The object of this Act is to provide economic assistance on the termination of an employee. The Act is applicable to the employees employed in factories, mines, oil fields, plantations, ports, railways, companies, shops or other
establishments employing 10 or more persons. The Act is administered by a controlling authority appointed by the appropriate Government.

2.15 SUMMARY

Employees’ State Insurance Scheme is one of the important social security schemes in India. A clear to understanding about the social security schemes will be relevant in this regard. Hence a thread-bare discussion about the concept of social security, various definitions of social security, need for social security, objective, types of social security global developments and trends in social security, institutional arrangements for development of social security at international level, social security measures in India, evolution, general legislative trends in social security in India and various social security legislations in India is attempted in this chapter.