Chapter – 8
CONCLUSION AND SUGGESTIONS

I. CONCLUSION

The changes ushered by the new millennium has led to reorganization of work. Policies of economic liberalization have severely altered the relationship between the state and labour. The labour laws of India originated and expressed the socio-political views of leaders such as Nehru from pre-1947 independence movement struggle. These laws were expanded in part after debates in Constituent Assembly and in part from international conventions and recommendations such as of International Labour Organization, India’s experiments with socialism, important human rights and the conventions and standards that have emerged from the United Nations. The laws cover the right to work of one’s choice, right against discrimination, prohibition of child labour, fair and humane conditions of work and social security etc. India has numerous labour laws. Those that aim to guarantee fair and humane conditions of work, those that provide social security. India also has numerous rigid regulations such as maximum number of employees per company in certain sectors of economy, and limitations on employers on retrenchment and layoff, requirement of paperwork, bureaucratic process and government approval for change in labour in companies even if these are because of economic conditions.

Indian labour laws are considered to be very highly regulated and rigid as compared to those of other countries in the world. India has over 50 major Acts and numerous laws that regulate employers in matters relating to industrial relations, employee unions as well as who, how and when enterprises can employ or terminate employment. Many of these laws survive from British colonial times, while some have been enacted after India’s independence from Britain.

India has a federal form of government. Labour is a subject in the Concurrent List of the Indian Constitution and therefore labour matters are in the jurisdiction of both central and state governments. Both central and state governments have enacted laws on labour relations and employment issues. Labour legislation is one of the most dynamic and vital institutions in modern society and has a much larger scope and deeper significance in national life than anything that could be effected by an outside organization or external force. Labour legislation seeks to deal with problems arising out of occupational status of the individual. Consequently, such problems as wages, working conditions, industrial disputes and social security etc, are the main subject matter of labour legislations. Some of the major social security laws relevant to India are Employee’s Compensation Act, 1923, Employees Provident Fund and Miscellaneous Provisions Act, 1952, Maternity Benefit Act, 1961, Payment of Gratuity Act, 1972 etc.

In Europe, due to propagation of Marxists, there was a tendency of revolt among workers due to miserable conditions in industrial establishments. For the first time, in Germany, the Statesman Chancellor Bismark had taken some legal steps in 1884 by providing for the security of workers in various forms. The new law in Germany provided benefits such as a right to receive compensation from their employers for injuries suffered in the course of employment, irrespective of any fault or breach of duty on the part of employers. The German Act required employers to indemnify injured workmen, or in the case of fatal accidents, their families and it also setup an insurance system under which the employers were obliged to insure the risk.\(^2\)

In England, the doctrine of ‘Laissez faire’ which means ‘let things alone.’ The policy of complete economic freedom was carried in the state for a considerable period. The employers were imposing, in the name of freedom of contract harsh terms on the employees who

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had no bargaining power. The employees had no adequate means on
relief against the employers for injuries sustained in their
employment. For death or disablement by industrial injuries the only
legal remedy that an employee or his dependent would seek was
damages as per common law. According to common law, employees
claim could be allowed only if he was able to establish some
negligence or breach of duty on the part of the employer, but that was
not easy to prove and there was always an implied term in a contract
of service of the servant and consequently, when such negligence was
the cause of the injury, he could not claim damages from the master.
Hence at common law, an employee could rarely recover damages,
even if he was very able to carry on an expensive litigation upto the
end.\(^3\)

The demand for compensation to the employees in case of injury
arising out of and in the course of employment by the employer gained
grounds. At the same time the famous philanthropist and industrialist
Robert Owen attracted the attention of the government and the public
in England towards the most appalling working conditions of the
industrial workers and demanded legislative protection and social
security measures for the protection of the industrial workers.\(^4\)

Labour is divided into two parts organized and unorganized. The
organized sector includes primarily those establishments which have
more than 10 workers. The unorganized sector includes small and
marginal farmers, landless agricultural labourers, share croppers,
fishermen, those engaged in animal husbandry, beedi rolling, labeling
and packing, building and construction workers, leather workers,
weavers, artisans, salt workers, workers in brick kilns and stone
quarries, workers in saw mills, and workers in oil mills etc. The

\(^3\) Id.
\(^4\) Id.
unorganized labour includes service workers such as midwives, domestic workers etc.\textsuperscript{5}

The need of social security in India can hardly be exaggerated especially for working class population in the country. It is a fact that ours is a poor country and the wages, which our workers get, are so low. It is, indeed, surprising how the Indian labourer maintain himself and his family on such an insignificant income. The wages are low except in some cases in the country. Even with the best of wisdom and care, the workers cannot acquire all the essential things. So the maximum workers are buried in debt.\textsuperscript{6} The worker has to live under unhygienic and unhealthy conditions. When he falls sick, there is nobody to take his care; when he is thrown out of employment, there is none to sympathise with him, to help him, or to maintain him; when he is disabled, he is neglected like scrap; when he becomes old, he is thrown out like waste.\textsuperscript{7} So the need is necessary but the funds available for the programmes are necessarily limited. Majority of the working people in the rural areas especially in agriculture sector are deprived of any of the protections of the existing social security legislations. They need some social security assistance in the form of earning related programmes in the field of agriculture etc. The other basic need in the rural areas is health care as they are more prone to various diseases.\textsuperscript{8}

Government makes efforts to improve labour laws by appointing various Commissions and Committees from time to time. The First Labour Commission\textsuperscript{9} also stressed the need for an expanded social security network in the country to take care of workers interests. It advised the government to avoid a piecemeal approach and Second

\begin{itemize}
\item \textsuperscript{5} Supra note 1 at.
\item \textsuperscript{7} Ibid at 391.
\item \textsuperscript{9} First National Labour Commission of India, 1966.
\end{itemize}
Labour Commission\(^{10}\) discussed and recommended Social security, in addition to its primary social role, is seen as an investment in social and economic development, helping societies to be resilient in times of economic crisis. It is widely understood that without a social protection floor, no society can exploit its full productive potential and hence achieve desired levels of welfare for all its members and unless there are higher levels of social security, there will be no universal acceptance of globalization which brings no potential benefits and is accompanied by faster economic change and increasing insecurity.

There are many Indian laws which deal with the concept of social security in India directly and indirectly. Social security is increasingly viewed as integral part of the development process because it helps to create a more positive attitude to the challenge of globalization and the consequent structural and technological changes. It envisages that the employees shall be protected against all types of social risks that may cause undue hardship to them in fulfilling their basic needs.

India as a welfare State, has taken upon itself the responsibilities of extending various benefits of social security to its citizens. Preamble and Directive principles under Articles 38 to 47 of the Constitution, levies responsibility of social security of citizens on the State. The Constitution of India has gone out of the way to protect rights and privileges of workers, ensuring a decent and dignified life.\(^{11}\) Many laws relating to social security of organized and unorganized sectors have been framed e.g. Employees State Insurance Act, 1948, Employees Compensation Act, 1923, Employees Provident Fund and Miscellaneous and Provisions Act, 1956, Industrial Dispute Act, 1947, Payment of Gratuity Act, 1958, Maternity Benefit Act, 1961 Mahatma Gandhi National Rural Employment Guarantee Act, 2005, The Unorganized Sector Workers Social Security Act, 2008, The Domestic

\(^{11}\) The Constitution of India, 1950.
Workers (Registration, Social Security and Welfare) Act, 2008 etc. and with these legislations there are some schemes which are related to Provident Fund, Swarnajayanti Gram Swarozgar Yojana, Indira Awas Yojana, Sampoorna Grameen Rozgar Yojana and National Rural Health Mission etc.

The working of the Employees Compensation Act, 1923, has brought to light some defects. The employers usually complain that the Act is unfair to them, because in some cases they pay the compensation for a risk for which they are not personally responsible e.g. in case of fatal injuries and on the workers point of view the working of Act is more serious, especially in small establishments in small areas or regions. Moreover, the workers are ignorant and illiterate and in several cases they do not know about the entitlement of the compensation.12 If compensation is not paid in time there is a penalty on compensation to be paid by the employer, along with interest.

In case of closure, lay-off, transfer of undertaking and retrenchment security is given to the workers under Industrial Disputes Act, 1947. In order to attract section 25(FFF) it is not necessary that the entire establishment of an employer should be closed. If a unit or part of an undertaking which has no functional integrity with other units is closed it would amount to closure within the meaning of section 25(FFF).13

Employees State Insurance Act, 1948 was first of such measures adopted in India to provide for social insurance to the labourers. It gives the benefits relating to sickness, maternity benefit, disablement benefit, dependents’ benefit, medical benefit, funeral expenses and pension benefits to the workers. It is an integrated need based social insurance scheme that protects the interests of workers

12 The Employees Compensation Act, 1923.
in such contingencies. The Act also guarantees reasonably good medical care to workers and their immediate dependants.

The ESI Act is a beneficial legislation and is a social security legislation. ESI scheme and Corporation has been established under this Act. Scheme applies only to those employees who draw wages as is defined in section 2(22) of the Act which is revised after sometimes. ESI corporation promotes measures for the improvement of the health and welfare of insured persons and for the rehabilitation and reemployment of insured persons who have been disabled or injured and may incure expenditure in respect of such measures. With expenditure from the funds of the Corporation within such limits as may be prescribed by the central government corporation also appoints regional boards, local committees, regional and local medical benefits councils.¹⁴

With the industrial growth some of the big employers had introduced schemes of provident funds for the welfare of their workers. But all these schemes were private and voluntary. Workers of the small employers remained deprived of the benefits which were provided by the big employers. Guaranteeing social, economic justice, to secure freedom from want and security against economic fear, to fulfill these promises, the Employees Provident Fund and Miscellaneous Provisions Act, 1952 was passed which is a social security legislation. It intends to protect the interests of a weaker section of the society i.e. the workers employed in factories and other establishments, it is imperative for the courts to give a purposive interpretation to the provisions contained. There in as per Article 42 of the Constitution, the State shall make provision for securing just and humane conditions of work and for maternity relief. A motherhood is the most natural phenomena in the life of a woman. Whatever is needed to facilitate the birth of child to a woman who is in service, the employer has to be considerate and sympathetic towards her. The

¹⁴ Employees State Insurance Act, 1948.
employer must realize physical difficulties which a working woman would face in performing her duties at the work while carrying a baby in the womb or while rearing up the child after birth. Hence Maternity Benefit Act, 1961 was enacted which gives two types of the benefits cash and non cash benefits. Cash benefits include 84 days of leave with pay, a medical bonus of 1,000, Additional paid leave up to one month if necessary and in case of miscarriage, six weeks leave with pay. Non-cash benefits include light work for 10 weeks (six weeks plus one month) before delivery, two 15-minute nursing breaks until the child is 15 months old, guarantee not to be discharged or dismissed while on maternity leave and no change to her disadvantage while on maternity leave.  

The Payment of Gratuity Act makes another benefit payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years. The employer has to pay the gratuity to an employee at the rate of 15 days wages based on the rate of wages last drawn by the employee concerned. Gratuity is ordinarily paid only once on retirements. It is assessed as one time payment and the quantum bears relation to the length of service paid in lump sum at retirement and is paid by the employer to employee to rely on during his old age retirement. In case of death of the employee, gratuity payable to him shall be paid to his nominee or, if no nomination has been made, to the heirs. The right to gratuity is also a statutory right.

The Payment of Gratuity Act, 1972 has been enacted with a view to grant benefit to workers, a “weaker section” in the industrial adjudicatory process. In interpreting the provision of such beneficial legislation, therefore liberal view should be taken. In lieu of gratuity some employers pay the ex-gratia. In this view the court held that ex-
gratia payment cannot be regarded remuneration paid or payable to employees in fulfillment of the terms of employment contract. Shrinkage of jobs in the organized sector has resulted in more people entering the unorganized sector. But being unskilled or semi-skilled they can find their absorption by the market extremely difficult. Problems of human insecurity and unemployment can return to top of the political agenda in most countries.\textsuperscript{18} The workforce in the unorganized sector comprising about 37 crore or 93\% of the total workforce do not get adequate labour protection in terms of job security, working conditions and social security. Social security of unorganized sector is effected by many factors such as casual and seasonal employment, scattered work place, poor working conditions etc. Under social security of unorganized sector priority should be given to the medical care, accident benefits and old age pension. Government has started many schemes for unorganized workers, but there is confusion at the level of beneficiaries as to what exactly they are entitled.\textsuperscript{19}

India had more central and state government employees in 2008, than employees in all private sector companies combined. If state-owned companies and municipal government employees were included, India had a 1.8:1 ratio between public sector employees and private sector employees. India is adding about 13 million new workers every year to its labour pool. The unorganized nature of the workforce, dispersed nature of operational processes and lack of institutional back up reduces their bargaining power and their ability to take full benefits from the Acts and legislations enacted for their benefits. Further, low skill levels of this workforce provides little scope for them to move vertically in the occupational ladder to improve their financial situation. The growth of informal, unprotected work with shrinking formal employment compels the workers to bear an

\textsuperscript{18} Supra note 1 at 172.
\textsuperscript{19} The Report of Working Group of Social Security For 10th Five Year Plan, 2002–07.
increasing direct burden of financing social needs, with adverse effects on their quality of life. That burden may also undermine the capacity of enterprises to compete with global economy.

Workers under labour laws or social security laws have been effected by the present globalization. Many workers of organized and unorganized sector are working under government or private companies. Foreign companies affect on the domestic companies. Globalization implies the opening of local and nationalistic perspectives to a broader outlook of an interconnected and interdependent world with free transfer of capital, goods, and services across national frontiers. Globalization means the closer integration of economic sources, in all sectors of economy for the welfare and development of world humanity. So whole of the world has been global village. The government has made many changes in the labour laws on its agenda which will be only brought out specially in the field of social security with the tripartite consensus keeping all the interests in view by the government. Government is trying to provide social security benefits to workers in the unorganized sector also. Minimum social security, that covers food security, health and medical facilities and pension benefits, apart from disability and accidental death compensation in accordance with the availability of resources and minimum involvement of government, is to be given by employees. Bilateral agreements are being made to give social security to the foreign workers. In this era Mergers and Acquisition of companies affect social security measures.

In the context of the emerging world scenario the National Labour Commission, 1999 remarked, “the first requisite for employers and employees is to develop a mind set that looks upon each other as partners and to develop a work culture that new technology and globalization demands.” The National Commission on labour took into consideration the trusteeship theory of Gandhiji.
The ILO concept of social security is based on the recognition of the fundamental social rights guaranteed by law to all human beings who live from their own labour and who find themselves unable to work temporarily or permanently for reasons beyond their control. At the international level, the Preamble of the Constitution of ILO also referred to the need and protection of workers against sickness, disease and injury arising out of their employment, pension for old age, protection of the interests of workers who were employed in countries other than their own. Thus, the right to social security was recognized officially for the first time in the Conventions Recommendations of ILO. Subsequently, the U.N General Assembly, while adopting the Universal Declaration of Human Rights also recognized the right to social security by stating that every member of the society has a right to social security.

Right to social security is protected at international level by the International Labour Organization and International Social Security Association. India is a founder member of ILO. So many Conventions and Recommendations given by the ILO have been ratified by India. But Minimum Standard Convention is main Convention on social security. This Convention has given the nine benefits of social security. At international level social security is measured by that Convention, India has also ratified this Convention. In present times of globalization many workers get, job opportunities that arise across the countries and demand more security. Through these conventions, the security to the workers is increasing Still. ILO with the help of ISSA is doing efforts relating to workers security.

In India, the provisions of most of the ratified conventions have been given effect mainly through their incorporation in labour laws, a reference of which has been made in the relevant sections of particular labour enactments.

The major Conventions relating to social security ratified by India are The Workmen’s Compensation (occupational diseases),
1925, The Equality of Treatment (Social Security) Convention, 1962. The provisions of Convention have been incorporated in the Workmen’s (Employee’s) Compensation Act, 1923 and Employees State Insurance Act, 1948 and Employee’s Provident Funds and Miscellaneous Provisions Act, 1952 and The payment of Gratuity Act, 1972 embody the provisions of Convention No. 111. These laws do not make any discrimination between nationals and foreigners relating to entitlement to social security benefits. The provisions of the Social Security (Minimum Standards) Convention, 1952 have been partly incorporated in the Employees State Insurance Act, 1948.²⁰

International Social Security Association is also an effective in the way of the social security at international level. ISSA also established the country level offices for the protection of workers. It is working at international level. Many Conferences, Conventions, workshops and meetings are held at international level by it.

The social dimensions of globalization and the problems and challenges it brings have become public concerns. There would be a growing realization that markets do not function in isolation from the social and political context. Increasing social polarization and exclusion should necessitate the provision of a strong social framework and social safety net side by side with the search for a new economic system and framework.²¹

India’s rigid labour laws and excessive regulations assumed to protect the labour are the cause of slow employment growth in high paying, organized sector. India can no longer afford to carry on with labour market rigidities. Now there is a new urgency to improve the quality of Indian products and the competitive strength of the Indian industry. Special efforts are needed to upgrade skills and improve labour productivity at a much faster pace to survive and grow in the fast changing world business environment. For this, labour policy will

²¹ Supra note 1 at 172.
have to move away from restrictions and regulation to the facilitation and promotion of growth with increased labour participation in management.\textsuperscript{22}

The current economic policies of the government, are with its welfare obligations. On the one hand economy is growing very fast but its benefit is confined to 10-15% population. The rich poor divide is increasing continuously; the agriculture sector is neglected from the focus of economic development; the small scale industries have been devastated by the impact of neo-liberal policies; the social security demand is increasing. There is urgent need to change the economic policies with people focused plan both in terms of expenditure and implementation, and the economic policy should provide special focus on development of agriculture, elimination of poverty and inequality, social security and financial inclusion.

The society was becoming more open to the outside world and was being transformed into an industrial economy. It required further socialization of the insurance schemes. The social insurance be reformed by increasing the scope of social insurance so as to cover all the workers in the public, collective, private and foreign funded enterprises.\textsuperscript{23} The goal of extension of social protection to the entire population would not be practicable without international solidarity and the evolution of a new economic order. The entire range of North-South economic relations, flow of resources, invisibles, debt service, international trade, protectionism was relevant for the issue one way or the other. In that task there was a distinct role for international organizations especially the ILO and international financial institutions.\textsuperscript{24}

Lastly we say that labour laws have been changing from Vedic period till date. There are so many changes in these laws, especially

\textsuperscript{22} Ibid at 173.
\textsuperscript{24} Ibid at 109.
regarding social security laws providing the medical, sickness, invalidity, old age, maternity, employment injury, family and survivors benefits. These benefits protect the workers from any mishappening relating to their life.

On the basis of above discussion, it can be safely concluded that there are number of Conventions at international level for upliftment of workers and providing security cover to the workers. ILO and ISSA are working in this field. Due to globalization, these Conventions are helpful to provide social security at international level.

II. SUGGESTIONS

There are many labour welfare laws enacted in our country and also social security legislations for the workers of organized and unorganized sectors. These laws are not sufficient to provide social security to workers and their families. Following are the suggestions to improve the social security system for workers at national and international level.

- There is a need to improve labour welfare amenities already existing by integrating them into more comprehensive social security package and expand the coverage of the Employees State Insurance Scheme and the Family Pension Scheme.
- The Assistant Labour Commissioner/ labour officer of the department should be given powers to issue a certificate for recovery of any money due under any social security law, since the recovery made through a magistrate takes long time and the workman feels harassment.
- There should be tripartite Area Level Committees to identify the beneficiaries, issue identity cards to them and collect contributions from them and look after the implementation of social security laws and to address any complaint received from a workman regarding these Acts.
There should be uniform definitions of the terms such as employer, employee, establishment, wages etc. in various Acts. The coverage of various Acts should be in a code, it should be called the Labour Code. The code should consolidate and codify, to the extent necessary, amend or add to all exiting legislation on employment, welfare, social security and insurance and other related matters. It means integration of different laws into a comprehensive statute having a common set of basic definitions and substantive rights and responsibilities to apply uniformly to all sectors of labour employed in the country.

A public Relations Network should be built to educate workers about their rights and benefits under various social security schemes. A provision should be made for payment of education allowance to all employees by amending the existing laws regulating employment and condition of service of employees. The responsibility of creating awareness among workers should be vigorously undertaken by the Central Board for Workers Education through its wide network throughout the country. The Government, on its part, should make all possible efforts to dispel the fears of trade unions by enlarging the scope and coverage of the social security net. It should develop labour market institutions to assist workers in upgrading skills and make available alternative job opportunities.

Security of employment can hardly mean bonding a worker for life with one organization. Security is best ensured when workers get competing opportunities for employment. Trade unions need to become partners in the reform process and help in creating more employment opportunities.

All social security schemes should consist of whole tax-based schemes for destitutes and people below the poverty line who cannot make any contribution for their security. These should mostly be area-based schemes. There is a general measure of
agreement that tax-based systems of social protection, providing as full a basic coverage as possible, should be developed along with complementary social insurance types of programmes for those who can afford to make contributions.

- There should be Earning Test in social security. So that more social security can be given to people earning low and less benefit should be given to people earning more.

- Employees Compensations Act, 1923 be amended so as to include compensation for artificial limbs, rising cost, pain, suffering, trauma due to loss of enjoyment, amenities prospects of marriage.

- There is need to extend the Employees State Insurance scheme to newer areas.

- Exemptions may be granted from the ESI, in cases where establishments provide similar or superior benefits. Since the ESI Scheme is a contributory scheme, the rates of contribution should be fixed on an actuarial basis, and be free from collective bargaining.

- The management of the ESI scheme should be professionalized. While a tripartite body may continue to remain the general body, day-to-day administration may be entrusted to a body of experts who should constitute the governing body.

- ESI hospitals are less in number so keeping in view the large funds accumulated in Employees State Insurance Corporations more special hospitals, medical colleges for workers ward and dispensaries should be opened. Hospitals at the level PGI Chndigarh should be opened.

- It should be mandatory for employers to provide adequate medical treatment for their workmen and they should mitigate the effects of such accidents as do occur.

- Social security schemes should be wholly contributory and partly subsidized schemes for workers in the organized sector.
because the burden of various social security benefits, at present is borne predominantly by the employer. Very little contribution is made by the workers or the State. The contributory schemes should be either by themselves or jointly with their employers can make adequate contribution.

- The enforcement of existing social security legislations namely Employee’s Provident Fund Scheme and Employee’s State Insurance Scheme should be strengthened because all the workers are not fully availing the benefits especially in the unorganized sector.

- The initiatives taken up by the Employees Provident Fund Organization to streamline the delivery system and issue of National Social Security Number (SSN) to the workers should be continued. It would help in reducing harassment to the workers and reduce corruption in the organization. The SSN is meant to address the needs of a largely mobile and seasonal workforce with no fixed address or contact point, as well as to avoid the possibility of multiple accounts for same member. The SSN would be an intelligent means of administering subscriber identification and uniqueness that are necessary because of member’s identity is essential for each claim and in this scenario a member is directly recognised by EPFO without dependence on employer for attestation.

- Where ever in a social security law there is a wage ceiling e.g. in EPF Act it should be connected with cost of living Index. So that the government has not to amend it time and again also the ceiling in these Acts should be increased by more than 50% so that more workers of higher salary may also get the benefits.

- The pension under the EPF Act should be increased substantially and should be connected with price index.

- It has been observed that in some Companies/Corporations e.g. food agencies, where the workers have to work in a day in
different agencies to load, unload and stack the food grain bags etc. in depots and loading and unloading them from railway wagons and trucks etc., are engaged in various agencies at the same time. Where the employers are contractors and the principal employer agency. These private contractors must be duty bound to deduct EPF and give benefit to such workers and pilferage of Employee's Provident Fund by the contractors be checked, so that real workers get social security benefits.

➢ Use of information technology applications in organizations, like Employee’s State Insurance and Employee’s Provident Funds should be used at large scale to provide transparency and better services.

➢ Since Employees Provident Fund Act and Employee’s State Insurance Act etc. are applicable on a minimum strength but the tendency of the employers is not to show that strength in order to escape their implementation, therefore the appropriate government should issue a certificate at the time of their establishment showing minimum workers to be employed so that they do not make any excuse for their non implementation. If any employer does not deduct the contribution of its employees or of workers action should be taken against him and there should be a provision in the Indian Penal Code for the same.

➢ Convergence of various schemes for the organized sector avoids duplication of benefits e.g. both EPFO and ESIC provide disablement and death benefits. This will also result in reduction of administrative costs. Since both the organizations have vast infrastructure which should be utilized if some of the functions are combined.

➢ Care should be taken that young people are helped to choose occupations which are likely to suit their capacities and to provide progressive employment. Further experiments should be
made in the use of aptitude tests to determine the kind of work for which school leavers are suitable. It should be compulsory for unemployed adolescents to attend full time courses at the young people colleges. The right to unconditional unemployment benefit should be strictly limited in duration.

- Standard packages for different target groups should be available throughout the country, since there is large scale movement of workforce and population from one state to another.

- The involvement of Non Government Organizations etc. should be encouraged for the enforcement machineries in the Central and State governments.

- Majority of the workers are ignorant and illiterate and in several cases they do not even know that they are entitled to compensation in case of individual accidents or social security. So regular awareness camp, seminars and workshops about social security laws should be held in different cities in which the representatives of employee, employer and government should participate along with trade unions and associations to educate them about these laws.

- The greatest problem that has been faced in the past is identification of beneficiaries, their enrolment and making them aware to participate in the scheme. This will require setting up vast number of ‘workers facilitation centers’ near the actual location of workers, for the purpose of registration and providing a single point inter face between the workers and social security service providers. These WFCs (Workers Facilitation Centers) should be duly networked on technology so that it can prove cost effective and real time information can be processed at a fast speed. Every worker should be issued a single multi-purpose smart card on which a variety of transactions can be
made. Entire history of benefits, work details, health etc should be available against this identity.

- The proposal of providing social security cover through more legislations should be finalized and social security schemes providing for medical care, natural and accidental death cover and old age pension be formulated for unorganized workers. It is essential to enhance the coverage under national social assistance programmes providing old age pension, maternity and other benefits to the workers in the unorganized sector.

- The Payment of Gratuity Act may be integrated with the Employee’s Provident Fund Act and converted into a social insurance scheme. It will ensure automatic extension of the Payment of Gratuity Act to all establishments to which the Employee’s Provident Fund Act applies. Section 4(A) of the Payment of Gratuity Act, 1972 which was added with effect from 01.10.1987 through an amendment of the Act makes obligatory on the part of the employer to obtain an insurance against his liability for payment towards the gratuity under the Payment of Gratuity Act, 1972 from Life Insurance Corporation, may be given effect so that the payment of gratuity can be secured to workers of small establishments. At present Section 4(A) is not being given effect to by the appropriate Governments. Similar provisions as under Section 4(A) of Payment of Gratuity Act, 1972 should also be added in Employee’s Compensation Act.

- If an employer makes any ex-gratia payment to its employees at the time of retirement/superannuation, that should not be considered as a part of gratuity necessary amendment needs to be made.

- So far as women in the unorganized sector are concerned, there is undoubtedly a need for a separate legislation for providing maternity benefits. Its implementation is possible through Welfare Funds or area-based schemes. The women employees in
the private sectors are usually thrown out of employment at the time of pregnancy. Therefore, strict penal action is needed to stop this harassment of women to debar them from social security benefits.

- Registration/identification of employees, inspecting machinery etc. should be combined as inspections, etc. should be combined for ESIC, EPFO and payment of gratuity for various functions.
- New labour legislation is needed to correct the imbalance by placing on the statue book the obligations of the organized workers towards the community.
- The Mahatma Gandhi National Rural Employment Guarantee provides a legal guarantee for at least 100 days of paid employment in every financial year to adult members of any household willing to do unskilled manual work related to public work at the statutory minimum wage. If they fail to do so the government has to pay the salary at their homes. This scheme is not being properly enforced and not reaching to the poor people so it should be properly enforced so that maximum poor people can take the benefit. Loop holes leading to corruption in it be plugged.
- The workers are not aware about new legislations like the Unorganized Sector Workers Social Security Act, 2008 and The Domestic Workers (Registration, Social Security and Welfare) Act, 2008. The Government should use print and electronic media to let the people know about the enforcement of these laws. The government should also display these laws on public places and villages in local languages and must show the documentaries in rural and tribal areas.
- Right to universal social security should be included as a Fundamental Right in the Constitution so that all persons can get social security at every stage of their life. Social security in
India had a constitutional genesis. Article 39-A, 41 and 43 of the Indian Constitution required the State to provide the whole gamut of social security protection to its people. But unfortunately these were included in the Directive Principles of State Policy which were not enforceable in a court of law. So pressure be brought on the Government so that it might become a fundamental right. If social security was regarded as a basic human right and as an instrument of social justice there was no reason why it should be barred from the courts. Social security is not a charity. It is a right of every individual and it should be possible for anyone who was denied social security to approach the highest court for enforcement of his right.

- Due to the globalization and its impact on the labour force, it is necessary to put in place a National Policy on social security for all sectors throughout the country. Encouragement should be there at the domestic level to compete with the foreign work. Globalization is the strategy adopted by multinational companies of increasing decentralization of operation and sub-contracting across national borders leading to a considerable dispersion of the production.

- It should be made mandatory for multinational companies to make their standing orders applicable in their establishment in consonance with the socio-economic needs of the society and workers.

- There should be re-engineering and radical change in business processes to improve functions of contribution, collection, record-keeping and benefit delivery, of social security.

- It has been observed that in many Industrial Disputes no relationship of master and servant is taken as a plea to debar an employee from the social security laws benefits by the employer. Therefore it should be ensured that every employee in an establishment gets an identity card and attendance card.
showing his employment there. So that he/she can be eligible to get benefit at a later stage.

- Every establishment whether small, medium or large should get itself registered with the employment exchange showing the minimum and maximum number of workmen employed there, which may establish their relationship with the employer and should also report the change of employees to the employment exchange.

- Lok Adalats should be encouraged under the social security laws to settle the claims of the workman at the earliest.

- If an employer does not report an accident in his establishment to the labour department/police. In such a case employer should be responsible for criminal negligence and necessary action should be ensured against him under Indian Penal Code.

- The section 25FF sub section 3 of Industrial Dispute Act, 1947 should be made mandatory i.e. if a person is retrenched a report must be made to Assistant labour Commissioner/labour officer of the labour department of the appropriate government so that the workman is not debarred from retrenchment compensation.

- In every district Social Security Associations should be formed to work as watch dog for the implementation and enforcement of measures under different social security laws.

- In villages for implementing social security schemes tripartite committees should be set up at block level to look into any complaints regarding those schemes and to take up appropriate steps against the misuse of funds under them.

- The MNCs should be encouraged to set up their own hospitals or dispensaries for their workers.

- The present contract system adopted by the MNCs should have a proper check so that the workers are not thrown out at the discretion of the company and be deprived from social security
benefits. In the insurance and banking sector where the MNCs are working, social security measures should be strictly enforced, properly.

- It should be important to identify appropriate delivery channels and design adequate delivery mechanisms for social security that have the capability to reach all the intended beneficiaries while avoiding leakages of benefits, and favouritism and rent seeking on the part of administrators of the schemes. Such channels and mechanisms should also be capable of making the beneficiaries aware of their rights and entitlements, and enhancing their participation in administering the programmes.

- It is also important that the delivery platforms are adequately backed and supported by relevant technology.

- Steps should be taken to establish a pooling system of contributions paid by the state enterprises and the individuals.

- Employers should establish a system to guarantee the workers basic living standards and to meet the needs of society.

- The role of tripartizium and its effectiveness in the field of social security should be evaluated.

- The ILO should play a more effective role in conjunction with other pressure groups such as the Trade Unions for the implementation of policies of social security.

- The right to work should be made a fundamental right.

- Staff for implementation of social security law should be strengthened.

- Penal Action should be initiated against those persons/organization who debar the genuine social security beneficiaries, on flimsy grounds or knowingly, to serve their own interest.
Law itself cannot serve the purpose of protecting the workers against the exploitation and enjoyment of rights by the workers. There are several loopholes in and inconsistencies in the exiting labour welfare laws relating to social security, these should be removed by the required legislative amendments so that more and more benefits of exiting laws, policies and programmes can be given to the members of working class. There is need to sensitize the society, employers, workers and the authorities for the proper enforcement of existing laws. There is an urgent need to educate the workers regarding their rights for the attainment of Constitutional rights guarantee given to the workers. Hope that this beginning will provide a sense of security among all those who are engaged in productive occupation. The society can progress when workers get their due, since social security is their lifeline.