CHAPTER-VIII

CONCLUSIONS AND SUGGESTIONS

8.1 Conclusions:

In India, the Concept of Social Security was found to be well embedded in the institutions like joint family, religion, caste and village societies and in the customs, rights and responsibilities of individuals and occupational groups since time immemorial. According to Dharmashastras, the King was placed under an obligation to help orphans, aged, windows and those suffering from disease, handicaps and calamities. Ensuring education, training and employment using the resources of the state were also made obligatory on the part of the King as a part of Rajadharma. The provision for the deduction of a part of the wages of the employees and to provide the amount later according to his requirement and the provision for pension and family allowance were laid down in ‘Sukranitisara’ a compilation of the rules of Rajadharma. Further its allied topics indicated the collecting the grains from the people in normal times as an ‘insurance fund’ distributing them freely to the needy people during the famines and other calamities and undertaking public works as a means to provide employment. This substantiates the fact that the concept of Social Security, even in its modern sense, prevailed in ancient India. The Guilds, corporate organizations also seems to have contributed significantly in providing relief to the needy persons.

As the formal Social Security started evolving in the last quarter of nineteenth century and in the first two decades of the twentieth century across the
world as an outcome of industrialization and urbanization, the foundations of the formal Social Security are laid in British India in the form of the Pensions Act, 1871; the Workmen’s Compensation Act, 1923. Later it gradually evolved after the independence with the legislations and schemes being framed to provide Social Security benefits for the citizens.

Social Security provides for health and economic protection to the people in the society by the government against the threats to leading a dignified life due to employment insecurity, unemployment, low wages, exploitations, old age, accidents, deceases, natural calamities, poverty, death of the bread winner, invalidity etc.

The ILO recommends the protection of the worker against sickness, disease and injury arising out of his employment, provision for old age and injury, protection of the interest of workers when employed in countries other than their own.

The National Commission on Labour (NCL) has recommended for formulation of unemployment insurance schemes to help the people who are unemployed involuntarily. Further, it recommended for evolving an integrated Social Security scheme and creation of a separate Social Security fund to finance various security measures. However, no efforts have been made so far in this direction.
The working group noted that the Second National Commission on Labour has been constituted by the Government to suggest rationalisation of existing laws relating to labour in the organised sector and suggest umbrella legislation for ensuring a minimum level of protection to the workers in the un-organized sector.

The Second National Commission on Labour was asked to take note of the developments that have followed liberalization and globalization, the demands that they make, and its effects on the working class, our industries, Government and all sections of the society; and to make recommendations on the laws and systems that we need to offer protection and security measures for our working population, to increase the economic efficiency and competitiveness in the industry.

The Second National Commission on Labour constituted in the year 1998 submitted its report to the Government of India on 29th June 2002. The Commission has made certain recommendations for introduction of changes in the Industrial Disputes Act, 1947 and Trade Unions Act, 1926. It has also proposed for enactment of new legislation called Labour Management Relations Act-2002, by consolidating Industrial Disputes Act 1947, Trade Unions Act, 1926 and Industrial Employment (Standing Orders) Act, 1946 to be applicable to establishments or undertakings employing 20 or more workmen. It has also recommended for enacting “The Small Enterprises (Employment Relations) Act, 2002 covering all aspects of employment including wages, social security, safety, health etc., applicable to all establishments employing less than 20 workmen.
The provisions pertaining to providing of Social Security are well laid down in the Constitution of India. The Directive Principles enshrined in Part IV of the Constitution of India are the fundamental guidelines for the good governance and to ensure Social Security reflected in the fundamental rights guaranteed under the Constitution of India. The Supreme Court of India has in catena of cases held that the Directive Principles and the Fundamental Rights as supplementary and complimentary to each other; and that Directive Principle are enforceable.

In spite of Constitutional guarantee of Fundamental Rights and the Apex court’s rulings, the rights of vast majority of people in unorganised sector remain superficial. The Social Assistance programmes in many States pertaining to old age pension, maternity assistance, destitute, widows are inadequate in their coverage as well as quantum of benefits. When social justice is the watch word of our Constitution, our country should not allow anyone to suffer deprivation or exploitation of basic necessities of life.

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 upon the demise of the earning member in the family or in the event of such member suffering any inability or disability due to any reason. Thus the main strength of the Social Security system is that it acts as a facilitator. It helps people to plan their own future through insurance and assistance.
The Life Insurance schemes like Janashree Bima Yojana and the Aam Admi Bima Yojana also cover the poor. Further, the Rashtriya Swasthya Bima Yojana (RSBY) launched in October 2007 aims to provide health insurance for the BPL families. All the 600 districts of the country are expected to be covered by the scheme in a phased manner. The scheme envisages cashless transaction by introducing the provision of a smart card issued to the beneficiary. The insured amount for five members is per annum is Rs.30,000/-, which is to be shared by the Central and the State Governments in the ratio of 75:25. The State Governments are assigned the responsibility of planning the project and its implementation. The scheme is extended to benefit the building and other construction workers above poverty line also. The Government of Kerala has extended the scheme to cover the APL families also on payment of the full annual premium in addition to BPL families. The Rajeev Arogyasri Health Insurance Scheme of Andhra Pradesh is fully funded by the State government and aims to cover all BPL families in the state for the treatment of major ailments and surgeries.

The schemes of Central and State Governments have huge coverage on various sectors of the society and the budget spared for them is sufficient, but the misuse of such schemes must be avoided for effective implementation of the schemes. The Karnataka’s Yeshaswini Health Insurance Scheme, introduced in 2002 based on public–private partnership, provides health insurance to agricultural workers and small and marginal farmers in the State on the Payment of Rs.60/- per annum by the registered member and the Govt of Karnataka.
contributes Rs.30/ per annum per member. This scheme is being implemented successfully in the State and there is every need to frame such health insurance scheme for the small and marginal farmers by all the states.

Even though with the existence of various Social Security laws, the benefits and facilities prescribed there under do not reach all the persons coming within their scope. A vast majority of the workforce and also of the weaker sections do not enjoy the minimum protection and security even today in our country. Hence, there is a wider scope for more research and for better legislations on part of the government to ensure the constitutional goal of providing social, economic and political justice, and of equality of status and opportunity in the era of globalisation.

The people in unorganized sector include building construction workers; casual labourers; labourers employed in small scale industries; handloom and power loom workers; workers in Bidi and cigar factories; employees in shops and commercial establishments; sweepers and scavengers; workers in tanneries; workers in matches and crackers industry; fishermen; farmers and agriculture labourers; small and marginal farmers; share croppers; persons engaged in animal husbandry, fishing, horticulture, bee-keeping, toddy tapping, etc; forest workers; rural artisans; manual labourers in carpentry, trade, transport, communication etc; street vendors; hawkers; head load workers; cobblers; tin smiths; workers in garment industry, etc.
Unorganised sector constitutes major part and plays an important role in the Indian economy. More than 90 per cent of the total workforce in the country and about 50 per cent of the national product are accounted for by the Unorganised Sector. Sadly, majority of the socially and economically underprivileged sections of society are concentrated in the economic activities of this sector.

The existing Social Security Laws in India do not cover the entire people in the Unorganised Sector whether in terms of their recognition or protection. A majority of the persons in the Unorganised Sector face insecurity in their lives whether it be economic or health aspect even today. The very fact of increase in the number of suicide cases by the farmers and others due to economic pressures caused either because of failure of crops or of mounting debts; increase in the number of suicide cases of women due to attacks on her modesty, sexual harassment; increase in the number of crimes due to unemployment and poverty, are proof for the failure on part of the government to provide effective Social Security measures especially for those in Unorganised Sector.

To provide legislative backing to the existing schemes and to workers in unorganised sector, the Unorganised Workers’ Social Security Act, 2008 has been enacted by the Parliament recently. The Act empowers the Central Government to bring the Act into force from such date as specified by it in the notification issued in the Official Gazette. The Act imposes an obligation on the State governments to initiate Social Security measures as envisaged under it. As the existing
measures do not adequately cover the informal workers in most of the states, the extension of Social Security coverage to more workers would depend on the initiatives that are taken up by the State Governments in the coming years.

Even the Social Assistance programmes in few States for old age pension, maternity assistance, and for destitute, widow are inadequate in coverage as well as benefits. When social justice is the watch word of our Constitution, our country should not allow anyone to suffer deprivation or exploitation of basic necessities of life.

There are no complete, comprehensive and reliable statistics on the size, economic status, social distribution and economic contribution of the Unorganised Sector. As a consequence there can be no policy or scheme that would practically meet its purpose aimed at providing Social Security to the people in Unorganised Sector irrespective of the funds allocated or the personnel involved in its implementation.

No serious attempt is made so far to study the link between the organized and unorganised sectors, even though it is omnipresent and the Unorganised Sector is increasingly interlinked with the Organised Sector. The Unorganised Sector contributes to the economy to a greater extent and it also caters to the wide ranging requirements of the Organised Sector.

There is virtually no authentic data available on the workers in the construction sector. No survey was ever conducted by any government or its
department for assessing and analysing this part of the rapidly expanding unorganised sector. No Social Security measures were taken up in the interests of people in this sector.

In modern times construction activities, whether it be construction of bridges, flyovers, underpasses, apartments, widening and laying of roads, commercial complexes, multiplexes etc is a common sight in urban areas. The number of informal workers in this field is very large. The people working here are very vulnerable group and are often exploited. They work in very unsafe and unhealthy work atmosphere. Their lives are always at high risk. They being part of social infrastructure development works which is very crucial for the development and progress of any economy that they need to be given effective Social Security protection by the governments. There is an urgent need for conducting special survey over this part of unorganised sector.

The various surveys being conducted by the government incurring huge expenditures running into hundreds of crores of rupees are not very helpful in either identifying the vulnerable people in the society especially in Unorganised Sector or in mitigating their problems or in providing Social Security to them. There is lack of proper planning, proper organisation and of effective execution of various surveys aimed at providing Social Security to the people.

Economic Census was formulated for the first time by the Central Statistical Organization (CSO) in the year 1976 and since then 5 times it was
conducted during the years 1977, 1980, 1990, 1998 and 2005. The Sixth Economic Census-2012 aiming to provide detailed information on operational and other variables, activity wise, of all the establishments of the country including their distribution at all levels for comprehensive analysis of the structure of the economy (macro, micro, regional levels) and for benchmark purposes; to provide updated Directory of Establishments employing 10 or more workers up to the village/ward level for local level planning purposes and use the same as an input for the development of National Business Register, which would be useful for estimation of District Domestic Product; and to provide an up to date frame from which samples could be drawn for collecting detailed information was to take off during the year 2012 at a cost of over Rs. 700,00,00,000 (Seven Hundred Crores) with the involvement of about 8 lakh persons.

Economic Censuses conducted earlier was total failure and have caused heavy loss to the Exchequer of the State. A comparison of the economic census with the national sample survey shows the flaws and failure of economic census. NSS estimates of manufacturing enterprises and workers are about twice the corresponding Economic Census-2005 estimates. NSS estimates of manufacturing own account enterprises (OAEs) are almost three times the corresponding EC estimates. NSS estimates of OAEs in the service sector, excluding trade, are nearly three times the EC estimates. But, the EC estimates of Government and Public Sector units are higher than the NSS estimates, showing that Directory and Non-Directory numbers generated by the EC are not under counts. EC estimates
of manufacturing enterprises at the state level are lower than the NSS in all the States and Union Territories in the country.

The timing, periodicity and manner of conducting Economic Census has been always wrong and further delays in updating and publishing the data has defeated the very purpose and the effectiveness of conducting such surveys. The Parliamentary Standing Committee on Finance has also been voicing its concern over these issues. They have to be conducted at least once in every 5 years and its report should be made available before the commencement of the preparations for successive Five Year Plans.

The training given to the enumerators or persons involved in conducting survey is grossly inadequate and ineffective. The government's ambitious Economic Census-2012 aimed at creating a comprehensive database of the economic profile of India's households and businessmen was pushed back once again due to lack of personnel.

The Annual EUS conducted by the Labour Bureau at the behest of the Ministry of Labour & Employment, for the study of the impact of economic volatility on the labour market does not distinguish formal and informal employment. Over 90% of the people in Unorganised Sector in India are today outside any kind of Social Security coverage by the government. There is absolutely no identification or any sort of authentic record or report of these vulnerable people in the Unorganised Sector.
Despite plenty of schemes by the government whether State or Central there is no Social Security available to the majority of the people, in the vulnerable sector, either in the form of Social Insurance or Social Assistance.

The various Labour related legislations are of no significance so far as the Unorganised Sector is concerned since it has no application or coverage to the people in the Unorganised Sector. Even in the case of vulnerable persons in the Organised Sector the various labour legislations are a failure because there is no effective and timely remedy available to the victims falling under the scope of these legislations. The huge number of cases are pending under these legislations particularly under Industrial Disputes Act, 1947; Employees Compensation Act, 1923, Minimum Wages Act etc.,.

For example in Workmen’s Compensation Act even though the wage ceiling has been removed, the categories of workmen specified Schedule-II restricts its applicability. So also, in case of Employees Provident Fund and Miscellaneous Provisions Act, this applies to scheduled industries and classified establishments. In case of Employees State Insurance Act, its coverage is restricted to insurable population. Moreover the application of Employees State Insurance Act and Employees Provident Fund and Miscellaneous Provisions Act is also subject a wage ceiling. Due to this, employees whose wages exceed the prescribed amount cannot be covered under these Acts and as a result large number of persons go out of coverage.
In case of Industrial Disputes Act, 1947, the provisions regarding to lay-off and retrenchment, compensation are applicable to establishment employing not less than 50 persons and that too, to those employees in the establishment which comes under the definition of Industry in the Act. The Payment of Gratuity Act and the Maternity Benefit Act, also restrict their coverage in terms of the number of persons employed. So it can be said that the Social Security schemes in India under these legislations cover only a small percentage of the work force. It is suggested that Schedule-II of the Employee’s Compensation Act should be widened to include any person employed in any employment who is exposed to the risks of hazardous employment. They should further extend the coverage of the Acts, like the Employees State Insurance Act, Employees Provident Fund Act, Payment of Gratuity Act as well as in Maternity Benefit Act, so as to extend their application and to cover more persons. It is also necessary to reduce the minimum number of persons employed in industry with respect to provisions relating to lay-off, retrenchment; closure compensation under the Industrial Disputes Act shall be reduced from 50 to 20 persons in order to cover more number of workers working factories and industries.

Globalisation is a process of keeping the economy open so as to transcend the barriers of state and national laws whereby the local becomes global and vice versa. Unorganised Sector also known as informal sector can be broadly characterized as units of employment engaged in the production of goods or
services operating on a small scale and at a low level of organization without distinguishable division between labour and capital as factors of production.

There is no proper and effective check over the negative impacts and its consequences in the society due to uncontrolled globalisation. Globalisation has brought in more destruction than development so far as the middle and poor class people are concerned and more so in the case of those in Unorganised Sector.

In the name of Globalisation the government is allowing Foreign Direct Investments and the Multinational Companies (MNCs) to foray into those areas also wherein a large numbers of vulnerable groups are engaged for their livelihood. Mindless globalisation is causing more unemployment and underemployment. E.g. Allowing MNCs into retail business has badly hit many of the small time retail businessmen; allowing MNCs to trade in vegetables and fruits has badly hit the lakhs of street vendors selling vegetables and fruits rendering them to struggle for their very survival.

The aims and aspirations of our Constitutional framers and the Constitutional mandate to provide and maintain social and economical equality remains unfulfilled and incomplete. The government has failed to ensure the protection of Fundamental Rights especially in case of the unorganized sector and also to provide basic infrastructure, safe work atmosphere and opportunities to ascertain their Fundamental Rights.
The harmful and evil effects of Globalisation which are spreading wide and fast like forest fires needs to be urgently checked and curtailed and preventive measures have to be implemented on priority basis as it has a radical and destructive effect on the more important and expanding segment of the economy i.e., the Unorganised Sector. Failing which, the binding texture of the economy provided by the vast majority of the vulnerable people especially in the Unorganised Sector will be destroyed as they hold the key for development of any economy by providing the much needed support to the Organised Sector.

The careful analyses of the relevant information related subject of study have clearly substantiated the following hypotheses formulated for the study:

1. Social Security is a universal need and is recognized as a basic Human Right.
2. The majority of the Indian Social Security laws cover only the workers in the organized sector.
3. The Social Security laws needs to be evolved in developing countries to provide security even to the unorganized workers.
4. Implementation of Social Security laws in India is weak.
5. The Social Security measures available to un-organized workers in India are highly inadequate and needs to be strengthened.

The overall conclusion of the investigation is that, if the existing drawbacks in the social security system are removed, it will be helpful to evolve an effective social security system in the country which is need of the hour.
In the light of the above study and conclusions drawn from it, the following suggestions are made to improve the social security system in the country particularly to the people working in unorganised sector and to ensure its effective and efficient functioning.

### 8.2 Suggestions:

1. All the existing social security legislations in the country shall be effectively enforced to protect the interest of the workers as there are instances of lack of strict enforcement of these legislations even in the so-called organised sector of employment to which they are squarely applicable due to apathy on the part of law enforcing authorities and corruption. Further, the violators of these laws should be punished appropriately.

2. To cover all the unavoidable contingencies in the un-organized sectors, the Government of India, through its innovative approaches, should extend the application of the Employees State Insurance Scheme and Employees Provident Fund Scheme to all the workers in the un-organized sector with suitable modifications in the existing provisions under these Acts.

3. Considering the massive work force in the country in the unorganised sector, an honest effort must be made to pull down the barriers that hinder in providing a sound system of Social Security, which has to be achieved not just in paper but in action too. The coverage under National Assistance Programmes for providing old age pension, maternity and other benefits to
unorganized sector should be enhanced. Further, the welfare funds schemes need to be extended to other areas such as fish processing works, salt works etc.

4. The Recommendations of ILO with respect to various contingencies shall be adopted by the member States in their respective legislations for the protection of the unorganised sector in true spirit.

5. The Recommendation of the Second National Commission on Labour made in the year 2002 pertaining to rationalization of existing laws relating to the workers in the unorganized sector and framing of umbrella legislation for ensuring a minimum level of protections to the workers in the unorganized sector should be implemented on top priority.

6. The proposed new legislation called Labour Management Relations, which is the consolidation of Industrial Disputes Act 1947, Trade Unions Act, 1926 and Industrial Employment (Standing Orders) Act, 1946, applicable to establishments or undertakings employing 20 or more workmen must be enacted as soon as possible.

7. It is also necessary to reduce the required minimum number of persons employed in industry with respect to provisions relating to lay-off, retrenchment; closure compensation under the Industrial Disputes Act from 50 to 20 persons in order to cover more number of workers working in factories and industries.
8. The proposed legislation on Small Enterprises and Employment Relations covering all aspects of employment including wages, Social Security, safety; health etc., applicable to all establishments employing less than 20 workmen must also be enacted as soon as possible.

9. The coverage of Social Security and Social Assistance programmes should be increased. The quantum of benefits being given under such programmes should be enhanced.

10. State Governments should initiate Social Security measures as envisaged by the Unorganised Workers’ Social Security Act, 2008. As the existing measures do not adequately cover the informal workers in most of the States.

11. The micro-insurance products, like the Janashree Bima Yojana and the Universal Health Insurance Scheme must be made applicable to informal workers with low incomes. Further, an effective and efficient awareness programme about the benefits of such programmes must be formulated for its effective implementation.

12. The National Social Security Authority may be created under the overall charge of the Ministry of Human Resource Development to disseminate information, through its regular report about the availability and implementation of all Social Security benefits and to suggest ways and means to improve the Social Security in the country.
13. The Social Security schemes should be firmly and comprehensively integrated with the economic development and planning process.

14. Agricultural and the rural non-farm sector have to be more focused as it is the rural sector that can generate productive employment and also help in alleviating poverty in rural areas. In this regard, the Central and State governments should provide extra budgetary support for Social Security.

15. A separate budgetary support has to be made every year for all the various Social Security schemes taken up by the Central and State governments.

16. A separate statutory body should be constituted exclusively for the purpose of carrying out survey in employment and framing of comprehensive, effective and timely reports with respect to Social Security.

17. A comprehensive survey clubbed with the population census should be conducted periodically to avoid unnecessary expenditure on the national exchequer.

18. The life time Unique Identification Number should be given to every person of the vulnerable group, both in the Organised and Unorganised Sector by the Government without much hassle. It helps easy identification of such people and enables them to have access to various Social Security measures and their benefits.

19. The benefits availed under various Social Security Schemes must be under a transparent mechanism and the process to avail such benefits must be simplified.
20. Ministry of Human Resource Development shall appoint a special committee to examine the cases of misuse or improper implementation of various Social Security Schemes taken up by the Central and State Governments.

21. A high level Committee comprising of Legal and Economic experts should be constituted to examine the effects of Foreign Direct Investment or indirect investments, permitting MNCs into specific sectors or sensitive areas before granting them permissions, so as to ward off the evil and destructive impacts of globalization and liberalizations.

22. The existing Social Security Laws need be re-examined by an expert Committee in the light of the stark realities.

23. Providing better infrastructure to the Labour Disputes Resolution Authorities, appointment of more and qualified Judges and supporting staff should be considered on priority basis for speedy disposal of issues relating to Social Security.

   It is submitted that, if the above suggestions are faithfully implemented, it will make the system of Social Security more effective and efficient and ensure justice to the people.