CHAPTER-I

INTRODUCTION

Social Security has assumed considerable importance in the recent years. It is one of the basic needs in all the developing and underdeveloped countries including India. It is based on the ideal of living with dignity and an assurance of justice, both social and economic, by the government. The underlying idea behind taking up various Social Security measures by the government is the inability on part of some class of persons who are unable to meet the basic requirements of life on their own due to various inabilities and disabilities irrespective of whether they contribute anything or not to their country. The importance of Social Security in developmental plans, particularly in the context of present employee and employer relations need not to be exaggerated.

Social Security includes security for employment, availability of employment, reasonable standard of working conditions, of some income while unemployed, retirement income, recreation, self improvement, medical and ill health, or death. Social Security is a dynamic concept. Being a dynamic subject no rapid limit can be laid down for all time to come. It varies from time to time and country to country. Social Security provides for making provisions for the welfare of persons who are unable to secure employment due to various reasons like poverty, inaccessibility to the mainstream of life, old age, physical disabilities, mental or other sickness, oppression by dominant class of people, unavailability
of opportunities to have access to various avenues for individual’s growth, invalidity and hence earn anything for their livelihood.

The word “Social Security” as understood in the modern days was first used by Bismark in eighteen eighties in Germany. It got its official recognition and was used authoritatively in the United States of America only in the year 1935 for the first time.

It is novel concept in the field of business management and industrial administration. In rudimentary form, however Social Security was not unknown in ancient India. Today the worker gets all his facilities as of right; decades ago he got them as *en gratis*. It is true for all countries although there is no denying that Social Security, today embraces a wider field than ever before. In addition to labour welfare and economic protection of workers it covers also socio-economic progress and development of the weaker classes.\(^1\)

Social Security System in any country is an integral part of the government’s policy irrespective of the form of government. The growth, progress and prosperity of any country depend on the growth, progress and prosperity of its citizens. The Social Security System is aimed towards this end. It ensures the enforcement of human rights recognised by the world community and laid down in the State Laws. The need of this system has now gained more importance since the people, as evident from the history all through, have been facing uncertainties

about their very existence due to unemployment, illness, disabilities, death and old age that has hampered the growth of many nations. Social Security has evolved as State’s responsibility towards its people.

Social Security is providing security to the society from the insecurity to its very existence caused by various socio-economic and even geographical factors by the body governing the conduct of the society. The protection furnished by society to its members through a series of public measures against the economic and social distress that would be caused by the absence of earnings or substantial reduction of earnings due to sickness, maternity, employment injury, unemployment and underemployment, invalidity, old age and death. As countries began to modernize, traditional Social Security practices and systems gradually withered away thus necessitating the growth of the legally articulated, institutionalized systems with the State playing a major role. And the role played by the nation in formulating Social Security systems and providing public assistance to tackle uncertain contingencies displays the strength as well as the greatness of the nation. Hence, there has been a timeless quest for social provisions to meet the different risks and hazards of life.

Government, whether in a developed or developing nation plays a pivotal role in promoting social welfare by providing benefits to the needy citizens. The objectives of social welfare range from providing relief from poverty and attaining a minimum standard of living which assures decent life, to promoting greater economic equality by redistributing the resources from the rich through
taxation to the poor in the form of social services. Social Security is one specific area falling within the ambit of the welfare state.

The development of Social Security institutions is inherently limited in an underdeveloped or a developing economy having a low per capita and national income, but its importance tends to increase alongside the expansion-phase through which such an economy passes in an endeavour to promote development of the nation in general and its citizens in particular. The Social Security policies are part of a wide range of social policies such as investments in basic social services, protective labour legislation and the enforcement of basic rights. They are also intimately related to employment policies, because most of the Social Insurance schemes are financed out of labour incomes and protect against risks related to employment capacity such as unemployment, sickness, disability and old age. Favourable Social Security and employment outcomes are strongly influenced by economic development and all of them contribute to the process of socio-economic development\(^2\). Thus “the Social Security system delivers a key element of the complex and highly regulated network of conditional support provided by the state to citizens who lack the monetary or physical means to meet their basic needs. This overall network of support has traditionally formed the basic, primary, role of the welfare state.”\(^3\)


Hence, Social Security in a welfare state is a major instrument to achieve income security i.e., minimum income for those in need and a reasonable replacement of income for those who have contributed in promotion to their level of income. Thus Social Security is very important for the well-being of the entire community.

Though the process of Social Security in society has emerged from the pre-industrial period, the need for the State to provide an organised Social Security system arose out of the rapid industrialization. The needy people of the society were getting assistance from the community, guilds and the religious trusts etc. from time immemorial. England has formulated the Social Assistance Act, 1601, under which church wardens and poor families were getting financial assistance for their survival. Later on, Germany introduced the Accident Insurance Act in 1883. Similarly Italy and France have also implemented Social Insurance for their citizens.

Over a period of time, the Social Security programs become more popular towards the end of 18th century and the beginning of the 19th century in perspective of rapid industrialization, particularly in developed countries. The “Social Security programmes were established as a means to improve the well-being of the under privileged; reduce the inequality among the people in the society; and, promote the progress of the State and thereby avoid the social and
political conflicts in the society that necessarily arose due to capitalist form of production prompted by industrial revolution in various countries.”

Gradually with rapid industrialization, formulating programmes that provide Social Security has become an indispensable part of a nation’s polity. In modern times due to radical social changes caused by globalization with ever increasing trade and capital flows and tremendous technological advancements leading to rapid process of change has caused an increase in the gap between the haves and have-nots and hence Social Security System has became very essential to prevent class wars that can lead to fall of the governments and lead to anarchy.

The concept of Social Security is constantly evolving and is interpreted in a number of ways. As developed initially, Social Security was confined to the collective arrangements to meet contingences/adversities caused by various factors. But later, the concept of Social Security has attained greater dimensions and has begun to encompass not only security measures but also promotional measures and arrangements essential for the progress and development of the country. The Social Security thereby assumed two dimensions, the ‘Basic Social Security’ and the ‘Contingent Social Security’. “Basic Social Security is directly linked to the problem of deficiency for those who are not in a position to have

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4 Patricia Justino, ‘Social Security in Developing Countries: Myth or Necessity’, working paper No.20, September 2003, Poverty Research Unit at Sussex, University of Sussex: Brighton.
access to the minimum resources in order to meet bare necessities of life and thereby lead a dignified life in the society."  

The object of Basic Social Security is to create a ‘Social Platform’ where all the individuals are enabled to lead a dignified life by removing various hindrances and obstacles that have caused them to be entangled in the vicious cycle of poverty; denied them access to the provisions for education, health, clothing and shelter depriving them of earning the minimum wage required to make a decent living. On the other hand the Contingent Social Security comprises of all arrangements which include provident fund, pension, life insurance etc to sustain the income security during old age, sickness and unemployment. Contingent Social Security aims at providing security measures to the people who would become inefficient to earn minimum wages due to circumstances created by certain contingencies influenced by factors beyond their control.

Basic Social Security is envisaged for citizens while Contingent Social Security is provided to workers and through them, to their families. Basic Social Security is a fundamental requirement for the Contingent Social Security. The notion of Contingent Social Security has been primarily established by the industrialized countries to provide income security to their workforce.

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6 The Unorganized Workers Social Security Act, 2008.
In modern days, the concepts such as ‘Social Protection’ and ‘Safety Nets’ are being used to promote and protect the welfare of the people which is nothing but the expansion of the scope of Social Security. Social Protection is defined as the set of policies and programmes designed to reduce poverty and vulnerability by promoting economy, diminishing people’s exposure to risks, and enhancing their capacity to protect themselves against hazards and interruption or loss of income. It includes labour market policies and programmes, Social Insurance Programmes, Social Assistance and welfare service programmes, micro and area-based schemes and child protection programmes. Safety Nets on the other hand are the non-contributory transfer programmes targeted at the poor and those vulnerable to poverty. They are designed to eliminate the multiple deprivations faced by the poor and include the programmes for training, capacity building, skill formation, provision of assets and access to new livelihood opportunities to make poor self-reliant. But the term ‘Social Security’ is the most long-established of the terms and is primarily associated with the comprehensive Social Insurance and Social Assistance machinery. It takes into account any scheme or programme based legislation or any other statutory obligation which guarantees protection against employment injuries, occupational diseases, unemployment, disability, old age, retirement, death of the sole earner of the family etc in order to help the helpless to live a dignified life. And those programmes that the state has taken up to provide assistance in the form of cash benefits or benefits in kind to the poor

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and needy people. The former falls under the category of ‘Social Insurance’ while the latter comes under ‘Social Assistance’.

Unlike in totalitarian or a laissez-faire state, any state wedded to the concept of welfare and well being of its people will provide and aims to ensure Social Security from cradle to grave. A welfare state cannot afford to ignore the security of its people irrespective of their occupation whether it is agriculture or commerce etc. Hence, the need arises for the state to provide Social Security. It is doubtless that one of the pillars of the basic structure of any welfare state is the Social Security provided by it. Its influence on economic and social policies cannot be undermined. Programmes for Social Security have come to stay as the necessary and useful instruments for the protection and security of labour force. In its application to the industrial worker it covers those risks which are sporadic in the lives of workmen. These risks are such that the worker with meagre means cannot combat either by foresight or by himself in private combination with his colleagues. It is also realized that, in spite of various preventive measures like safety devices, vocational training and rehabilitation, undertaken to meet different contingencies arising from the very nature of work, it is not possible to avoid them totally. The burden/responsibility of providing Social Security to the people of the society is in the ultimate analysis on the society itself. Since the conduct of the people in the society is regulated by well defined and organised machinery of the State it is the State’s responsibility also to provide an effective Social Security by various means using the resources of the community.
The term “Security” is both subjective and objective concept. It has to create in the minds of the people an assurance against fear that their survival can come to stake due to any contingency created by any factor. At the same time in the event of such contingency it has to provide the material resources required for their dignified living. It enjoins confidence that the benefits will be available when required and perforce the protection afforded must be adequate in quality and quantity. It ensures protection of the worker against sickness, disease and injury arising out of the employment, occupational hazards, and protection of children, women and provision for old age. The provision of services for prevention and rehabilitation are at the apex in Social Security policies or schemes. Prevention is the one that runs through all departments of Government, the actions of employers and employees, voluntary bodies and the actions of individuals and families.

Social Security at the same time has wider perceptive than prevention or relief of poverty. Relief against poverty is part of Social Security but it is more for the benefit of those not at work. Family allowances and health services were the only instruments which are used to help the men at work. The main purpose is to give the worker and the dependants on him some confidence, that their level of living and quality of life will not be adversely affected by any social or economic eventuality. This does not mean that Social Security aims to provide protection to those in distress but it aims at preventing the risk and helps the workers and their
families, make adjustments when faced with disablement or disadvantage which could not have been foreseen and which could not have been prevented.

The objectives of Social Security are three fold, firstly, compensation which goes to income security and is based on the idea that during the periods of risk an individual should not be subjected to a double calamity involving both destitution and loss of health, life or limbs. Secondly, restoration means the cure of the sick and the invalid, re-employment and rehabilitation i.e., removing the cause for disability and thirdly, prevention, whose object is to avoid the loss of productive capacity due to sickness, unemployment and use the available resources to avoid disease and idleness and increase the material, intellectual and moral well-being of the community. A man may feel the dependency in childhood and old age and in between may come, spells during which he cannot earn a living.

The Social Security helps the individuals during such spells of dependency. The hazards that confront the workers may be income insecurity which may be due to inadequate wages, faulty methods of payment, illegal deductions etc., lay-offs, dismissals and retrenchments. The workers may also face occupational insecurity which may be due to occupational diseases, and conditions of work and industrial accidents. There may be natural insecurity owing to natural factors like old age, invalidity, death of bread winner, sickness, maternity etc.
Various labour enactments, like Factory Act, Minimum Wages Act, Workmen’s Compensation Act, Employees State Insurance Act, Provident Fund and Miscellaneous Provisions Act etc., provide safety valves against these hazards and the implementation of these Acts form the core of the study.

Then raises the question, how to finance the expenditure to provide Social Security to the labour force. The two main current systems which aim at providing Social Security are Social Assistance and Social Insurance; they are the two faces of the same coin. Social Assistance refers to the assistance rendered by the society to the poor and needy persons voluntarily without placing any obligation on them to make contribution for becoming entitled to relief such as workmen’s compensation, maternity benefits etc.

The history evidences the fact that provisions similar in many ways to the present day schemes existed many centuries ago. The laws that prevailed in ancient India also provided for taking care of the weaker section. The practice of Zakat in Islamic societies is evidence. Zakat is a self administered tax in the form of a contribution given to the needy which is determined by the honour according to religious prescription. In Europe the development of Social Assistance is linked with the poor and they were provided in several European cities during the 15th and 16th centuries.

The second component of Social Security is Social Insurance. Social Insurance is a collective and co-operative method of protecting individuals against
the possible and unforeseen risks in life. It proceeds on the idea that though the accidents and the consequences that follow are incalculable, they may be foreseen and measured with a fair degree of exactitude in relation to groups of individuals, where they occur, by and large, in regular intervals. This enables us to foresee the risks to which the groups are exposed.

Social Insurance is designed to protect working classes against the hazards common to them. It is dependent on mutual aim and may be related to joint family system that existed. The growth of individualism and modern civilization has resulted in the disintegration of joint family system and brought the problem of economic security to be provided by the community. Social Insurance is defined as the giving in return for contribution, benefits up to subsistence levels, as of right means and without tests, so that an individual may build freely upon it. It implies that it is compulsory that men stand together because no insurance scheme can survive without some degree of compulsion. Rastogi observes that the object of Social Insurance is to ensure that the insured makes the best possible use of things or his or her faculties; to ensure equality of opportunity, and in attainment of these ends, to accord due respect to the inalienable values of individual dignity and liberty. Being a co-operative contribution of employer, employee and the state, it provides benefits after satisfying certain prescribed objective tests of eligibility. The benefit of the beneficiary in such circumstances does not bear direct relationship to the contributions made. Such arrangement is in fact, a beacon which affirms the ideals of democracy and lights up the way to
further progress. Social Insurance can be mingled with a special type of labour insurance system so that the workers’ efficiency is enhanced by means of sickness allowance, medical relief and by a system of rewards and benefits.

The basic problem relates to the financing of the schemes whether it is in the form of Social Assistance or Social Insurance. Generally, the requisite finance to meet the expenditure for social good is raised by contribution or taxation but there is no escape from the fact that the resources must be raised in a regular and systematic way, though the benefits fall due to irregular intervals, in both short and long term proposals. The pattern and mix of a Social Security schemes will depend on the order of priority in which a number of variables are placed. The variables include the economic and industrial programmes, the pattern of social and family life, the importance of medical services as against cash sickness benefit etc., the Social Security concept is essentially a personal service to cover persons and their dependants and its success is measured primarily in those terms.

Modern Social Security programmes may be regarded as devices to re-distribute income within their field and according to their structure, may divert part of the fruits of current production for the benefit of injured workers, secure minimum pension for the low paid workers. Partly at the expense of their better paid colleagues, spread the social cost of widowhood, invalidity etc., more widely by appropriate tax measures, by the means of which the industrial sector can directly assist the development of basic health services for the country at large,
and in general towards redressing the economic balance in favour of the relatively under privileged class of people.

In this context, the entire subject of Social Security deserves a comprehensive and critical review. The present study is an attempt in this direction in order to identify the deficiencies in the Social Security system and particularly for the workers in the unorganised sector and to offer appropriate suggestions for necessary changes in policy and law pertaining to Social Security to make the system more effective, efficient and responsive to the contemporary needs.

1.1 The Problem

Social Security is a basic need of all people regardless of the sector of employment in which they work and live. It is an important form of social protection we should begin with birth and should continue till death. In a general sense Social Security refers to protection extended by the society and the state to its members to enable them to overcome various contingencies of life.

Though, we have enacted good number of Social Security legislations to meet the mandate of our constitution and provide a sort of protection to the people in case of various providential mishaps, the scope and coverage of these legislations is limited to hardly 9% of the workforce, who are in the so called organized sector, as per 2005 census conducted by labour bureau. But remaining 91% of the persons working in the unorganized sectors such as the small and
marginal formers, the landless agricultural labours, the rural artisans, the handicrafts men and women, the fishermen and women, the salt workers, the hamals and the building and construction workers etc. are deprived of any kind of protection under many of the Social Security legislations of the nation.

Further, due to globalization the organized workface is shrinking and there is a tremendous increase of unorganized workforce in developing countries including India, resulting in considerable increase in the problem of Social Security. Thus majority of workforce in the above said unorganized sector are facing a problem of insecurity and as such are in an urgent need of comprehensive Social Security measures. The solution to the problem lies in restructuring and revitalizing the system of Social Security to ensure protection to the workers in the unorganized sector.

1.2 Objectives of the study

1. To study the concept of Social Security, its evolution and significance.

2. To study the Constitutional basis for Social Security legislations and policies in India.

3. To analyze the causes of insecurities of unorganized workers, identify the core needs of social protection, develop instruments and visualize the institutional mechanisms to address these needs.

4. To review examples of successful approaches and practices of the extension of Social Security in developing countries.
5. To highlight the challenges to Social Security and discuss the institutional mechanisms for delivering social protection.

6. To examine the Social Security benefits that are available in some developed and developing countries in order to compare and contrast with the benefits available in our country and to review if there is any scope to extend the coverage of benefits available in our country.

7. To examine the role of Social Security in the overall context of globalization.

8. To make suitable suggestions for evolving a comprehensive Social Security measures for the benefit of unorganized workers.

1.3 The Hypothesis

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.
1.4 Scope of the study

The present study is confined to verify the status of Social Security laws in the era of Globalization with special reference to these laws in un-organized sector. The study intends to review the relevant provisions of law relating to Social Security for workers in general and particularly for un-organized workers under various legislations, conventions and recommendations of National and International Commissions. This study further intends to know the need and significance of Social Security measures for unorganized workers, the impact of globalisation on Social Security and highlight the drawbacks and deficiencies in the present Social Security network and also to suggest some remedial measures to overcome the present problems.

1.5 Methodology

The methodology adopted by the researcher in this work is entirely ‘doctrinal’ in nature. The research is both analytical and descriptive in nature. The researcher, for the purpose of this study has relied on various sources of information, both primary and secondary, including Constitutional Law, labour laws, Social Security laws, relevant statutory provisions, articles published in various journals, texts-books, reports of various committees and commissions, law journals, judicial pronouncements, commentaries and websites etc., and uniform mode of citation are adopted.
1.6 Scheme of the Study and its Presentation


Chapter-I Introduction

In this chapter the general introduction to the study, the significance of the research topic has been explained and the researcher has also stated the problem, Scope of the study, objectives of the study, Hypotheses formulated for the research study and the research methodology adopted by the researcher have also been described.

Chapter-II Social Security: Historical perspective

This chapter deals with definition of Social Security, Social Security system in ancient, medieval and modern India, The evolution of the modern Social Security systems across the world and their salient features, Scope and concepts of Social welfare and the difference between the concepts of Social welfare and Social Security, Constituents and Significance of Social Security, ILO, Reports of NCL, and NCL recommendations on Social Security System have been discussed.
Chapter-III  Social Security and Constitution of India

This chapter deals with constitutional basis for Social Security in India and the detailed analysis of Preamble and Social Security, fundamental rights and Social Security, Directive principles of State policy and Social Security and Union, State and concurrent lists on Social Security System have been analysed in this chapter.

Chapter-IV  Social Security and the Law

This chapter deals with Social Security and law, Social Security Legislations in India that seek to provide Security to the workers, old aged, and disabled in the organised and unorganized Sector, Central Social Security Schemes, State Social Security Schemes and Social Security in USA, UK and Australia is also discussed.

Chapter-V  Social Security and Un-organized Sector

Chapter-VI  New Challenges to Social Security Systems

This chapter deals with Social Security and human rights, Women and Social Security, significant role played by the Indian judiciary in securing the human, general and socio-economic rights in particular. Few cases that throw light on apex court’s interpretation of various Social Security legislations and Social Security system are also discussed.

Chapter-VII  Globalization and Social Security

This chapter deals with Impact of Globalization on Social Security, Development approach to Social Security, Social dimensions of Globalization is also discussed.

Chapter-VIII Conclusions and Suggestions

This chapter contains the fair summary of the whole study and findings of the study. Appropriate suggestions are proposed for making the Social Security system more effective and efficient.