CHAPTER-V

RIGHT TO SOCIAL SECURITY

The term “Social Security” is propounded by the then President of USA, Franklin D. Roosvelt in 1930’s. He announced a programme for “security against the hazards and vicissitudes of life”¹. Right to social security is considered as an integral part of development process of the country. The concept of social security is as old as the history of man. The purpose of providing social security is to provide persons who are unable to meet their basic needs which are essential for their own future life through insurance and assistance². The right to social security to everyone secures vulnerable section of the society from poverty and helps to make them attain basic needs of life. Therefore, social security system of Government meant to serve the socially deprived conditions of people such as poverty, old age, disability and unemployment etc. The Right to social security represents an important legal guarantee provided for ensuring the right of everyone to live a life with dignity. It is an essential right for realization of other human rights like right to an adequate standard of life of every one society. Right to social security is one of the human rights. This right is recognized in various human rights instruments. Hence recognition of social security as a human right represents an essential transformation from needs–based charity to rights–based social justice.

The Right to social security is the protection for people in the society. The society provides for its members against the economic and social distress that caused by substantial reduction or ceasing of earnings resulting from sickness, maternity, employment injury, unemployment, invalidity, old age and death; the provision of

² Manoj Kumar Singha, Enforcement of Economic, Social and Cultural Rights 229 (Manak Publications, New Delhi, 2006).
medical care; and the provision of subsidies for families and children\(^3\). Therefore providing social security is responsible for preventive and mitigating. The Right to Social Security was officially proclaimed under Universal Declaration of Human Rights (UDHR), 1948 and International Labour Organization’s (ILO) Social Security Convention 102 in 1952. All World Countries have adopted social security policy for welfare of the people.

Social Security Convention, 102 of International Labour Organization has defined Social Security as “the protection which Society provides for its members, through a series of public measures, against the economic and social distress that otherwise would be caused by the stoppage or substantial reduction of earnings resulting from sickness, maternity, employment injury, unemployment, invalidity, old age and death; the provision of medical case; and the provision of subsidies for families with children”.\(^4\)

Dr. Amatya Sen and Jean Dreeze defines, Social Security is to use social means to prevent deprivation and vulnerability to deprivation. Similarly Robin Burgers and Nicholas Stern have defined that the objective of Social Security is the prevention by social means of very low standards of living irrespective of whether these are the results of chronic deprivation or temporary adversity.\(^5\) These definitions clearly established states obligation to provide Social Security to needy masses when they struggle for the basic needs of survival. Based on which various International Human Rights Instruments as well as International Labour Organization has emphasized to provide and recognize Social Security measures to the people.


There are two types of social security, i.e. protective forms of social security and promotional form of social security. The protective form of social security is related to maintenance of one’s income against loss or reduction. The promotional form of social security deals about a person to attain a decent standard of life and to maintain it. The protective form of security has protected the workers welfare and promotional form of security protects welfare of the people general who needs protection or assistance from State. This chapter deals about various social security for workers in both organized and unorganized sectors.

**5.1 International Level**

The international perspective of right to social security has recognized and developed through universally negotiated and accepted instrument that establish social security as a basic human rights. Therefore every person in the society has right to entitle it. In this way the right to social security has been enshrined in several human rights instruments adopted by United Nation’s General Assembly. Right to social security is expressly formulated under the Universal Declaration of Human Rights (UDHR), 1948 and International Covenant on Economic Social and Cultural Rights (ICESCR), 1966.

The UDHR specifically states that everyone in the member of the Society has the right to Social Security. It is entitled to realizations through national effort and International Co-operation. In accordance with State Resources, the Economic, Social and Cultural rights guaranteed to the State for the dignity and development of

---

6 Id.
human personality\textsuperscript{9}. Similarly \textit{“everyone has the right to adequate standard of living….. and necessary social services and the right to Social Security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control and motherhood and childhood are entitled to special case and assistance”}.\textsuperscript{10} The International Covenant on Economic Social and Cultural Rights (ICESCR) stipulates that the State parties to the present covenant recognize the right of everyone to social security, including social insurance\textsuperscript{11}. Article 10(2) recognizes the right of working mother to \textit{“adequate Social Security benefits”} and Article 10(3) requires that states undertake special measures of protection and assistance for children and young people.

The Committee on Economic, Social and Cultural Rights, which oversees the implementation of International Covenant on Economic, Social and Cultural Rights 1966 was concerned about the enjoyment of this right by women, older persons\textsuperscript{12} and persons with disabilities\textsuperscript{13}. It has given general comments to guide the states parties in this regard. The Convention on the Elimination of All Forms of Discrimination against Women is multilateral treaty adopted by the General Assembly of the UN on December 18, 1979. The Convention expressly provides for the right to Social Security and it prohibits discrimination against Women and imposes on states the obligations to take measures to advance the equality of Women. The right to Social Security has provided in women particularly women in case of retirement, unemployment, sickness, invalidity and old age and other incapacity to work as well

\textsuperscript{9} Art.22 of the Universal Declaration of Human Rights, 1948.
\textsuperscript{10} Id, art.25.
\textsuperscript{11} Art.9 of the International Covenant on Economic, Social and Cultural Rights, 1966.
\textsuperscript{12} General Comment No.6 of 1995, The Committee on Economic, Social and Cultural Rights.
\textsuperscript{13} Id, General Comment No.5, 1994.
as the right to paid leave\textsuperscript{14}, maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowance\textsuperscript{15}; and to benefit from Social Security programmes\textsuperscript{16}.

The Convention on the Rights of the child has adopted by UN on 20\textsuperscript{th} November 1989. It sets out social, economic, cultural, civil and political rights for children. The Convention expressly provides for the right to social security. It states that every child the right to benefit from Social Security including social insurance\textsuperscript{17} and also impose responsibility on the State parties secure the maintenance for the child from parents or other persons have financial responsibility for the child within state and from abroad\textsuperscript{18}.

The Convention on the Elimination of all Forms of Racial Discrimination was adopted by U.N.G.A. on December 21, 1965. It commits to eliminate racial discrimination and to promote understanding among all races. The Convention expressly provides for the right to Social Security of right to public health, medical case, Social Security and Social Services\textsuperscript{19}. The Convention on the protection of the Rights of all Migrant Workers and their Families was adopted by U.N.G.A. on 18\textsuperscript{th} December 1990. The Convention defines the rights of migrant workers; it is reiteration of rights contained in the Universal Declaration of Human Rights (UDHR). It specifically put attention on migrant workers since domestic legislations often restrict human rights to the citizens and excludes migrant workers. The Convention

\textsuperscript{14} Art.11(1)(e) of the Convention on Elimination of All Forms of Discrimination against Women, 1979.
\textsuperscript{15} Id, Art.11(2)(b).
\textsuperscript{16} Id, Art.14(2)(c).
\textsuperscript{17} Art.26(1) of the Convention on the Rights of the Child, 1989.
\textsuperscript{18} Id, Art.27(4).
\textsuperscript{19} Art.5(e)(iv) of the Convention on the Elimination of all Forms of Racial Discrimination, 1965.
expressly provides for the right to Social Security\(^{20}\) of Migrant Workers enjoy equality of treatment with the nationals of the state of employment in respect of (a) protection against dismissal; (b) unemployment benefits; (c) access to alternative employment in the event of loss of work or termination of other remunerated activity.

The Convention on the Rights of Persons with Disabilities was adopted by the U.N. General Assembly in December 2006. The Convention aims to ensure that persons with disabilities enjoy human rights on an equal basis with others. The Convention expressly states that State parties should recognize the right of persons with disabilities to social protection and to the enjoyment of right without discrimination on the basis of disability\(^{21}\). In addition to the International Covenant on Economic, Social and Cultural Rights, 1966 and Universal Declaration of Human Rights, 1948 and others Conventions, India has ratified certain ILO Conventions. These are Convention on Workmen’s Compensation (Occupational Disease) 1934\(^{22}\), Convention on Equality of Treatment ( Accident Compensation) 1925\(^{23}\), Convention on Equality of Treatment (Social Security) 1962. However India has not yet ratified the International Labour Organization No. 102. It lists to following Social Security benefits. These are sickness benefit, medical benefit, maternity benefit, employment injury benefit, Old-age benefit, invalidity benefit, survivors benefit, unemployment benefit; and family benefit.

The international instruments impose international obligations upon States. It relates to persons outside jurisdiction of State. These obligations are\(^{24}\) to respect


\(^{22}\) Convention No.42 of 1934 of International Labor Organization.

\(^{23}\) Id, Convention No.15 of 1925.

existing the right to Social Security to persons in the Society, protect the right to Social Security of persons from interference by private actors based on the States or international organizations in which the State is a member i.e. for example ensuring that policy of State do not negatively impact on the right to Social Security and fulfill the right to Social Security of persons through international aid and co-operation.

5.2 National Level

a) Legislative Incorporation

**Constitutional Perspective:** The Constitution of India adopted in 1950 contains all ingredients obliging the State to more towards the realizations of socio-economic rights. It is emphasized that Part–IV shall not be enforceable by on Count but the principles contained in it, are nevertheless fundamental in the Governance of the Country and it is the duty of the State to apply these principles in making laws\(^{25}\). Part-III\(^{26}\) of the Constitution guarantees fundamental rights. It prohibits human trafficking\(^{27}\) and child labour in hazardous industries\(^{28}\), recognizes the right to form Associations and Unions,\(^{29}\) and the right of children to education\(^{30}\). The Part-IV\(^{31}\) of the Constitution lay down certain directions to the State and it acts as goalposts of the State in the achievement of socio, economic rights\(^{32}\). These principles are to be used by the State in making laws.

The Directive Principles call for the State to provide for adequate means of livelihood; “*within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public*

\(^{25}\) Art.37 of the Constitution of India, 1950.

\(^{26}\) Id, arts.12 to 35.

\(^{27}\) Id, art.23.

\(^{28}\) Id, art.24.

\(^{29}\) Id, art.19(1)(c).

\(^{30}\) Id, art.21-A.

\(^{31}\) Id, arts.36 to 51.

assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want". Principles also lay down that the provision for security just and human conditions of work and for maternity relief and State must endeavor to secure, by suitable legislation or economic organization or in any other way to all workers agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full employment of leisure and social and cultural opportunities. It also impose duty on State that the level of nutrition and the standard of living of people and the improvement of public health as its primary duty.

The Constitution of India has demarcated the powers of the Central and State Governments in Seventh Schedule. List I contains items which are in the exclusive power of the Central Government. It contains small number of social protection measures which cost upon the Central Government. There are regulation of labour in mines and oilfields, and inter-state migration. The Central Government has also residual power to deal with any subject not mentioned in three lists in Seventh Schedule. The List–II of the Seventh Schedule enumerated subjects are comes under the exclusive domain of the State. The list also covers Social Security provisions. These are relief of disables and unemployed. The Concurrent List or List–III provides the State and Central has power to enact as subject enumerated under this list. It also contains certain Social Security provisions. These are

---

34 Id, art.42.
35 Id, art.43.
36 Id, art.47.
37 Id, entry 55 of List-I in Seventh Schedule.
38 Id, entry 81 of List-I in Seventh Schedule.
39 Id, Art.248 and entry 97 of List-I in Seventh Schedule.
40 Id, entry 9 of List-II in Seventh Schedule.
economic and social planning, social security and social insurance, employment and unemployment and welfare of labour including conditions of work, Provident Funds, employer’s liability, workman’s compensation, invalidity and old age pensions and maternity benefits.

Eleventh and Twelfth Schedules of the Constitution provide recognition of local self-governance. The Constitution through which assigns Social Security programmes on Panchayats and Nagarpalikas. The Eleventh Schedule provides for rural local bodies includes rural housing and poverty alleviation programmes, health and sanitation, including hospitals, primary health centers and dispensaries; family welfare; women and child development; social welfare, including welfare of people with disabilities; welfare of the weaker sections, and in particular, of the scheduled castes and the scheduled tribes; public distribution system. The Twelfth Schedule of the Constitution is states about urban local bodies. It includes urban planning including town planning; planning for economic and social development; public health; safeguarding the interest of weaker sections of society, including people with disabilities; slow improvement and up gradation; and urban poverty alleviation.

The Constitution has impose obligation on States to provide right to Social Security to all people who need to lead basic right to life. The Constitution has emphasized that basic Welfare Programmes should focus to people. The workers are asset of the State; their well being is paramount interest of the State. Therefore workers are covered by organized and unorganized sector and discussed their right to

---

41 Id, entry 20 of List-III in Seventh Schedule.
42 Id, entry 23 of List-III in Seventh Schedule
43 Id.
44 Id, entry 24 of List-III in Seventh Schedule.
46 Eleventh Schedule to the Indian Constitution.
47 Id, Twelfth schedule.
Social Security in aspect of International Human Rights Law. The Indian workforce is divided into formal / organized sector of the company and a huge informal / unorganized sector. The National Commission for Enterprises in the Unorganized Sector (NCEUS) has estimated the workforce in India and it states that 92.4% workforce is unorganized sector and 3.49% constitute organized workforce for the year 2004-2005.\(^{48}\) The Indian Workforce still dominated by Agricultural Sector in which employment entirely informal and self-employed and casual workers.

The social security scheme in India covers only the organized workforce. In organized workers are having direct relationship with employer-employee. The social security laws in India can be broadly divided into two categories, i.e. the contributory and the non-contributory. The contributory social security laws has provided for financing of the social security programmes by contributions paid by workers and employers.\(^{49}\) The contributory schemes of legislature are the *Employees State Insurance Act, 1948* and the *Employees’ Provident Funds and Miscellaneous Provisions Act, 1948*. The three major non-contributory enactments are the *Workman’s Compensation Act, 1923*, the *Maternity Benefit Act, 1961* and the *Payment of Gratuity Act, 1972*.

**Parliamentary Laws:** In India, the subject of Social Security has fallen on concurrent list. The Parliament and State Legislatures have concurrent power to enact laws on this subject. The laws regarding Social Security are mostly enacted by Parliament of India.\(^{50}\) The Parliament enacted laws are providing five types of Social Security. These are social insurance, employers’ liability, social assistance, provident funds and

\(^{48}\) *Supra* note 32 at 12.


\(^{50}\) *Supra* note 5 at 8.

*Employee’s Provident Funds and Miscellaneous Provisions Act, 1952 and Payment of Gratuity Act, 1972* has provided above said benefits except mutual benefit scheme. Apart these Act, the *Industrial Disputes Act, 1947, The Motor Vehicles Act, the Public Liability Act, Railway Passenger Ac* also contains Social Security measures. The Industrial Disputes Act provides unemployment benefit when employees’ are retrenched from establishments and other Acts provides the invalidity and survivors’ benefit.\(^{51}\)

The object of *Workmen’s Compensation Act, 1923*\(^ {52}\) is to provide provision for the payment of compensation by certain classes of employers to their workman for injury by accident. The Act makes an employer liable for the payment of compensation to a workman, if personal injury is caused to him by accident arising out of and in the course of employment.\(^ {53}\) The injury sustained may cause death, permanent total disablement\(^ {54}\) or permanent partial disablement\(^ {55}\) or temporary disablement whether total\(^ {56}\) or partial.\(^ {57}\) The amount of compensation payable shall be computed according to the formula laid down in the Act.\(^ {58}\) If a workman contracts an occupational disease in certain specified employment, it shall also be deemed to be an injury by accident and compensation shall be payable.\(^ {59}\) The Act also provides for appointment of Commissioners to deal with and settle the issue of liability to pay,

\(^{51}\) Id.

\(^{52}\) Act No.8 of 1923.

\(^{53}\) Id, sec. 3(1).

\(^{54}\) Id, sec. 2(1).

\(^{55}\) Id, sec. 2(g).

\(^{56}\) Id, Supra note 52.

\(^{57}\) Id.

\(^{58}\) Id, sec. 4.

\(^{59}\) Id, sec. 3(2).
amount and duration of compensation\(^{60}\) etc. Sec.12 of the Act imposed obligation on employer even though he may not least culpable, is liable to pay compensation to his contractor’s workmen where he employs a contractor for his trade or business. Therefore the employer is held vicariously liable. He should be indemnified by his contractor. The object behind the provisions of this section is to secure compensation to the workman who cannot fight his battle for compensation, by a speedy process. This section makes the employer liable not only for the immediate contractor working under him, but also a contractor working under the immediate contractor too.\(^{61}\)

For the purpose of this Act an inter-state migrant workman shall on and from the date of his recruitment, be deemed to be employed and actually worked in the establishment or as the case may be, the first establishment in connection with the work of which he is employed.\(^{62}\)

The Object of the Industrial Disputes Act, 1947\(^{63}\) is to make provision for the investigation and settlement of industrial disputes. It also makes provision for payment of compensation for lay off and retrenchment. Section 25C\(^{64}\) of the Act requires that whenever a workman, other than a badly workman or a causal workman, whose name is borne on the muster rolls of an industrial establishment and who has completed not less than one year of continuous service under an employer is laid off, whether continuously or intermittently, he shall be paid by the employer for all days during which he is laid off, except to the weekly holiday compensation which shall be equal to fifty percent of the total of the basic wages and dearness allowance that would have been payable to him. This is subject to the condition that if during any

\(^{60}\) Id, sec. 20.
\(^{62}\) Supra note 52 in sec. 21.
\(^{63}\) Act No.14 of 1947.
\(^{64}\) Id, sec. 25C.
period of twelve months a workman is laid off for more than 45 days no compensation will be payable in respect of any period after the first forty-five days, if there is an agreement to that effect between the workman and the employer. The section is applicable to establishment employing not less than 50 persons.\textsuperscript{65} Section 25F\textsuperscript{66} of the Industrial Disputes Act stipulates that no workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer unless the workman is given one month notice or wages for one month in lieu of notice and a compensation which shall be equivalent to fifteen day’s average pay for every completed year of continuous service or any part thereof in excess of six months. These provisions were made by amendment of the Act is 1953 which provides Social Security measures to workmen’s in order to standardize the existing practice under the Act.

These principal Social Security Laws enacted for the organized labour sectors in India. These laws are providing Social Security measures to workmen. The principal social security laws and schemes are not applicable to workers in the unorganized sector which accounts for over 90% of the total workforce. The following Act deals with unorganized employee’s right to Social protection. The unorganized sector is characterized by the lack of labour law coverage seasonal and temporary nature of occupations, high labour mobility, dispersed functioning of operations, actualization of labour, lack of organisational support, low bargaining power. All of the factors make it vulnerable to socio-economic hardships\textsuperscript{67}.

\begin{itemize}
\item \textsuperscript{65} Id, sec. 25A(1)(a).
\item \textsuperscript{66} Id, sec. 25F.
\end{itemize}
The object of *Employees’ State Insurance Act, 1948*\(^{68}\) is to provide certain benefits to employees in case of sickness, maternity and employment injury, etc. These benefits are maternity benefit, sickness benefit, medical benefit, disablement benefit, and dependents benefit and funeral expenses.\(^{69}\) The Act is applicable to all factories\(^{70}\) including those belonging to Government excluding ‘seasonal factories’\(^{71}\) as has been provided Under Section 1(4) of this Act. It envisages for extension of the benefits to other establishments. These establishments are including industrial, commercial, agricultural or otherwise by notification after giving six months notice of its intention of so doing by the appropriate Government. It imposes a condition that if the appropriate Government is the Central Government, prior consultation with Employees’ State Insurance Corporation is necessary and if the appropriate Government is the State Government, then prior approval of the Central government is necessary.\(^{72}\)

The Act provides that subject to the provisions of this Act, all employees is factories or establishments to which this Act applies, shall be insured in the manner provided by this Act.\(^ {73}\) The contribution payable under this Act, in respect of an employee shall comprise employer’s contribution, i.e. contribution payable by the employer and employee’s contribution which is payable by the employee. The rate of contribution payable may be prescribed by the Central Government.\(^ {74}\) The Act has imposed responsibility upon the principal employer to pay contribution in respect of every employee whether employed by him directly or by or through an immediate

---

\(^{68}\) Act No.34 of 1948.

\(^{69}\) These benefits and the eligibility of the employee insured for these benefits have been dealt under Chapter V of this Act, Rules 55 to 61 of the Employees’ State Insurance Rules 1956 which were inserted by Employees’ State Insurance Central (Amendment) Rules 1991, deal with this.

\(^{70}\) *Supra* note 63 in sec.2 (12).

\(^{71}\) *Id.*

\(^{72}\) *Id,* sec.1(5).

\(^{73}\) *Id,* sec. 38.

\(^{74}\) *Id,* sec. 39.
employer. The contribution to be paid by the employer includes both employer’s contribution as well as employee’s contribution. Employees whose average daily wages are up to fifteen rupees have been exempted from paying their contribution. Subject to the provisions of this Act, the principal employer has been empowered to recover from the employees, the employee’s contribution by deduction from his wages. Section 44 imposed a duty upon every principal employer and immediate employer, to submit to the corporation or to such other officer of the Corporation, as it may direct, such returns in such form and containing such particulars relating to the person employed by him in any factory or establishment in respect of which he is principal employer or immediate employer as may be specified in the regulation made in this behalf. It is also the duty of every principal employer and immediate employer to maintain such registers and records in respect of his factory or establishment, as required by regulations made in this behalf.

In The Employers’ Provident Fund and Miscellaneous Provisions Act 1952 has been enacted for the institution of provident fund, family pension fund and deposit linked insurance fund for employees in factories or other establishments. The Act, subject to provision of Section 16 is applicable to every establishment which is a factory engaged in any industry specified in Schedule-I and in which twenty or more persons are employed. It is also applicable to any other establishment employing twenty or more persons or class of such establishments which the Central Government

75 Id, sec.40(1).
76 Id, sec.40(2).
77 Id.
78 Id, sec.44.
79 Id.
80 Act No.19 of 1952.
81 Id, sec. 1(3) (a).
by notification in the Official Gazette, may specify in this behalf.\textsuperscript{82} It also provides that after giving not less than two months notice of its intention so to do by such notification the Government may apply the provisions of this Act to any establishments employing such number of persons less than twenty as may be specified in the notification.\textsuperscript{83} Section 1(4) of the Acts states that the Central Government has been empowered to apply the provisions of this Act to any establishment by a notification in the Official Gazette, if it appears to it that the employer and the majority of employees in relation to such establishment have agreed that the provisions of the Act, should be applicable to that establishment.

The purpose of \textit{Maternity Benefit Act, 1961}\textsuperscript{84} is to regulate the employment of women in certain establishments for certain periods before and after child birth and to provide for maternity benefit and certain other benefits. The term ‘Women’ has been defined in the following words: “Women” means a woman employed whether directly or through any agency for wages in any establishment.\textsuperscript{85} The Act is applicable to every factory, mine, plantation or circus industry. It is also applicable to every shop or establishments in a State, in which ten or more persons are employed or were employed on any day of the preceding twelve months.\textsuperscript{86} Further the State Government has been empowered to extend all or any provisions of this Act to any other or class of establishments industrial, commercial, agricultural or otherwise with the approval of the Central Government, after giving not less than two months notice of its intention of so doing by notification in the Official Gazette.\textsuperscript{87} If an

\textsuperscript{82} Id, sec. 1(3) (b).
\textsuperscript{83} Id.
\textsuperscript{84} Act No.53 of 1961.
\textsuperscript{85} Id, sec. 3(0).
\textsuperscript{86} Id, sec. 2(1).
\textsuperscript{87} Id.
establishment is covered by the Employees’ State Insurance Act 1948, this Act will not be applicable in such case except as provided in Section 5A and 5B of this Act.\textsuperscript{88}

An employer is prohibited, under the Act, from employing a female worker and a female worker is prohibited from working, in any establishment during the six weeks immediately following the day of her delivery or her miscarriage.\textsuperscript{89} Under Section 5, maternity benefit is payable at the rate of daily wages for a period of her actual absence immediately preceding and including the day of her delivery and for six weeks immediately following that day.\textsuperscript{90} For entitlement to this benefit, the female worker should have worked under the same employer for a period of not less than 80 days including the days of lay-off; if any, in the twelve months immediately preceding the date of her expected delivery.\textsuperscript{91} The maximum period for this benefit is paid in 12 weeks, i.e. six weeks up to and including the day of delivery and six weeks following that date.\textsuperscript{92} If a women dies during her delivery or six weeks thereafter after delivering a child, the maternity benefit shall be payable for the entire period of six weeks following the day of her delivery. If her child also dies during this period, then payment shall be made for the days up to and including the day of the death of the child.\textsuperscript{93}

The Act also provides for the payment of medical bonus of two hundred and fifty rupees to every women entitled to maternity benefit, if no pre-natal confinement and post-natal care is provided by the employer free of charge.\textsuperscript{94} In case of miscarriage, a woman shall be entitled to leave with wages at the rate of maternity

\begin{footnotes}
\item[88] Id, sec. 2(2), 5A and 5B.
\item[89] Id, sec. 4.
\item[90] Id, sec. 5(1).
\item[91] Id, sec. 5(2).
\item[92] Id, sec. 5(3).
\item[93] Id.
\item[94] Id, sec. 8.
\end{footnotes}
benefit for a period of six weeks immediately following her miscarriage.\textsuperscript{95} When a woman returns to duty after delivery, she has to be allowed two breaks of prescribed duration for nursing the child until it attains the age of fifteen months. This shall be in addition to the normal rest interval to which the female worker is entitled.\textsuperscript{96}

The object of \textit{Payment of Gratuity Act, 1972}\textsuperscript{97} is to provide a scheme for the payment of gratuity to employees in factories, mines, oil fields, plantations, ports, railway companies and shop or other establishment in which ten or more persons are employed or were employed on any day of the preceding twelve months.\textsuperscript{98} The Central Government has been empowered to make applicable the provisions of this Act by notification to such other establishments or class of establishments in which ten or more persons are employed, or were employed on any day of the preceding twelve months.\textsuperscript{99} This Act entitles employees employed on wages not exceeding three thousand five hundred rupees per mensem\textsuperscript{100} in an establishment for gratuity on termination of their employment provided they have minimum qualifying service of at least five years of continuous service.\textsuperscript{101} The termination of employment may be brought about by the workers’ superannuation, retirement, resignation or his death or disablement. In case of termination of employment caused by death or disablement the qualifying period of continuous service of five years is not necessary.\textsuperscript{102} If the service of an employee has been terminated for any act or willful omission or negligence causing any damage or loss to or destruction of property belonging to employer, he will even then be eligible to gratuity though the same can be forfeited to

\begin{itemize}
  \item \textsuperscript{95} \textit{Id}, sec. 9.
  \item \textsuperscript{96} \textit{Id}, sec. 11.
  \item \textsuperscript{97} Act No.39 of 1972.
  \item \textsuperscript{98} \textit{Id}, sec. 1(3)(a) and (b).
  \item \textsuperscript{99} \textit{Id}, sec. 1(3)(c).
  \item \textsuperscript{100} Notification no. S.O.863(E) dated November 26, 1992.
  \item \textsuperscript{101} \textit{Id}, sec. 4.
  \item \textsuperscript{102} \textit{Id}.
\end{itemize}
the extent of damage or loss so caused to the employer.\textsuperscript{103} Gratuity is payable at the rate of fifteen day wages for every year of service, based on the rate of wages last drawn by the employee. The maximum amount of gratuity payable is fifty thousand rupees.\textsuperscript{104} The Act also provides authorities for determination of the amount of gratuity and recovery of gratuity.

The objective of the \textit{Criminal Procedure Code, 1973}\textsuperscript{105} is to provide procedure for investigation, inquiry and trial of an offence. Apart from, it has certain substantive provisions, one of among is to guaranteed social security measures to wives, children and old aged parents who are unable to maintain themselves.\textsuperscript{106} The aim of the provision is to prevent starvation and help to lead standard of living. The provisions are applicable to all religions.

The objective of \textit{the Building and Other Construction Workers Act, 1996}\textsuperscript{107} is to provide provisions for regulating the employment and conditions of service of building and other construction workers and also provides for their safety, health and welfare measures and matters connected therewith. The Act applies to every establishments, belonging to or under the control of Government, anybody corporate or firm, an individual or association or other body of individuals which or who employs building workers in any building and other construction work and includes an establishment belonging to a contractor which employs, or had employed on any day of the preceding 12 months, 10 or more building workers in any building or other construction work,\textsuperscript{108} but it does not includes an individual who employs such

\begin{footnotesize}
\textsuperscript{103} Id.
\textsuperscript{104} Id, the Payment of Gratuity (Amendment) Act, 1993.
\textsuperscript{105} Act No.2 of 1974. It came to force on 1st April 1974.
\textsuperscript{106} Id, secs. 125-128.
\textsuperscript{107} Act No. 28 of 1996.
\textsuperscript{108} Id. sec. 1 (4).
\end{footnotesize}
workers in any building or construction in relation to his residence the total cost of such construction not being more than Rs. 10 lakhs.  

The Act also fixed responsibility and liability to the employer. It is mandatory for every employer to give notice of commencement of any building or other construction work at least 30 days before the commencement with complete details including nature of work involved, number of workers likely to be employed, approximate duration of the work and arrangement for the storage of the explosives to be used in the building or other construction work. Under the Act required to every employer registered their establishment within 60 days from its commencement or from the date on which this Act becomes applicable to their establishment. Employees are also responsible for payment of wages to each building worker employed by him providing weekly paid rest wages for over time and basis welfare amenities like crèches, first aid and canteen, etc., as provided under the Act and rules are framed under the Act. The Act also fixed responsibility to every employer pay the less 1% of the cost of construction to the concerned state building and other construction Workers Welfare Board. The fund is utilized for eugenic contingencies to the workers.

The objective of *the Maintenance and Welfare of Parents and Senior Citizens Act, 2007* is to provide for more effective provisions for the maintenance and welfare of parents and senior citizens guaranteed and recognized under the Constitution and for matters connected therewith. The Act has imposed obligation on the major son or daughter who is not being a minor to maintain parent or grand-parent

---

109 *Id.* sec. 2 (j).
110 *Id.* sec. 29.
111 *Id.* sec. 28.
112 *Id.* sec. 35-37.
113 Act No.56 of 2007.
and the childless senior citizens have right to maintenance obtained from their relatives. The right to maintenance is only to extend to their needs only so that read to a normal life. Any person relative of a senior citizen who has possession of his property, he is liable to provide maintenance.\textsuperscript{114} The needy persons has right to file applications under 5 of the Act.\textsuperscript{115} The Act mainly provides Social Security to the old aged persons in India.

The purpose of the \textit{Unorganized Workers’ Social Security Act, 2008}\textsuperscript{116} is to provide Social Security and Welfare of Unorganized Workers. It is a major milestone for informal workers and covers both self–employed and wage workers. The Act provides for formulation of schemes by Central Government on life and disability, health and maternity benefits, old age protection\textsuperscript{117}. The Act also provides for formulation of Schemes by State relating to provident fund, employment injury benefits, housing, educational schemes for children, and skill up gradation, old age homes and funeral assistance\textsuperscript{118}. It also set up of National Social Security Board\textsuperscript{119} and Workers Facilitation Centers\textsuperscript{120}. The National Social Security Board shall perform functions\textsuperscript{121} of recommend to the Central Government suitable schemes for different sections of unorganized workers; advise the Central Government on such matters arising out of the administration of this Act; monitor to Social Welfare Schemes; review the progress of registration and issue of identity cards to the

\textsuperscript{114} \textit{Id}, sec.4.
\textsuperscript{115} \textit{Id}, S. 5 (1): An application for maintenance under section 4, may be made – (a) by a senior citizens to a parent, as the case may be; or (b) if he is incapable, by any other person or organization authorised by him; or (c) the tribunal may take cognizing suo motu. Explanation: for the purpose of this section “Organisation” means any voluntary association registered under the Societies Registration Act, 1860, (21 of 1860) or any other Law for the time being in force.
\textsuperscript{116} Act No.33 of 2008.
\textsuperscript{117} \textit{Id}, sec. 3(1).
\textsuperscript{118} \textit{Id}, sec. 3(4).
\textsuperscript{119} \textit{Id}, sec. 5(1).
\textsuperscript{120} \textit{Id}, sec. 10.
\textsuperscript{121} \textit{Id}, sec. 5(8).
unorganized workers; review the record keeping functions performed at the State level; review the expenditure from the funds under various schemes; and to perform other functions as assigned by Central Government.

The similar Boards are established by each State Government and perform similar type of functions as enumerated under section 6 of the Act. The Schedule-I of the Act formulated various Social Security programmes or Schemes to the unorganized sector workers. The Act provides various schemes for benefit of the unorganized workers well being.

b) Executive incorporation

The various executive programmes have applied to organized and unorganized workers in India. The organized sector scheme applies to organized workers in India. The workers employed in the public sector are provided with Medical and Old Age benefits. The organized workers schemes are provided under various Social Security enactments. The Employees Provident Fund and Miscellaneous Provisions Act, 1952 has enumerated Employees Provident Fund Scheme, 1952, Employees Deposit Linked Insurance Scheme, 1976 and Employees Pension Scheme, 1995.

*Employee Provident Fund Scheme, 1952* the normal rate of contribution to the provident fund by the employees and employers each is 12% of the pay of the employees. However for few industries the rate of contribution is 10% each by employers and employees. Under the scheme, a member may withdraw the full amount standing to his credit in the event of retirement from service after attaining the age of 55 years; retirement on account of permanent and total incapacity; migration from India for permanent settlement in abroad; termination of service in the course of
mass or individual retrenchment and termination of service under a voluntary scheme of retirement framed by employer and employee under a mutual agreement.\textsuperscript{122}

*Employees’ Deposit Linked Insurance Scheme, 1976*, the employers make contributions to the Insurance Scheme, the employees are not required to contribute to the insurance scheme. The contribution of employer should not exceed more than one percent of the aggregate of the basic wages, dearness allowance and retaining allowance for the administration of Insurance Schemes. The scheme provides that on the death of an employee who is a member of the provident fund his nominee / heir would be entitled by way of an additional assurance benefit an amount equal to the average balance in his provident fund during the period of 12 months preceding his death subject to the maximum of Rs.35, 000.\textsuperscript{123}

The Employees’ Provident Funds Miscellaneous Act, 1952 was amended and a separate Pension Scheme was launched *Employees Pension Scheme, 1995* from 16\textsuperscript{th} November 1995. It replaced the Employees Family Pension Scheme, 1971. It provides for the comprehensive pension package to the member and his family in contingencies\textsuperscript{124} like Superannuation on attaining the age of 58 years, retirement, permanent total disablement, and death during service, death after retirement / superannuation / permanent total disablement and children pension and orphan pension. The amount of monthly pension will vary from member to member depending upon his pensionable salary and permissible service.

*The Employees’ State Insurance Scheme, 1948* was established by the Employees’ State Insurance Act, 1948. It applies to non-seasonal power using factories employing 10 or more persons and non-power using factories and certain other specified

\begin{flushright}
\textsuperscript{122} Supra note 5 at 107.
\textsuperscript{123} Id, at 113.
\textsuperscript{124} Id, at 115.
\end{flushright}
establishments employing 20 or more persons for wages. Workers in factories / establishments covered under the scheme and drawing wages up to Rs.6,500/- per month are covered under the scheme. The scheme is financed from contribution from employers and employees. Employees contribute 1.75% of their wages while the employers contribute 4.75% of the wages of insurable workers. Low paid employees drawing wages up to Rs.40/- per day are not required to contribution. The State Governments contribute a minimum of 1/8th share of the expenditure on medical care in their respective States. The scheme provides benefit of sickness benefit including medical care, disablement benefit, maternity benefit and dependants benefit in case of death due to employment injury.  

_Civil Service Pensions_ provides that civil servants are beneficiaries of pension schemes as well as being formulators and implementers of the schemes. The Government of India has reformed erstwhile pension scheme and introduced _New Pension Scheme (NPS)_ in January 2004. It defined contribution scheme with distinct mandatory and voluntary components. The mandatory component was made fully operational from 1st April 2008. Mandatory Membership covers those Central Government employees except armed forces personnel who first commenced employment on or after 1st January 2004. The total contribution rate for mandatory NPS is 20% of monthly earnings, split equally among the employee and the Government. Under mandatory NPS pension is paid at age 60 and pre-retirement withdrawals are not permitted. At present 22 States and all Union territories in India have introduced NPS type schemes. It covers 20 million Civil Servants in India. The voluntary component of NPS is open to all citizens between the ages of 18 and 55. It

---

125 id., at 72-77.
became operational on 1\textsuperscript{st} May 2009. The voluntary NPS has limited pre-retirement withdrawal provisions and flexible contributions. It was introduced by 2010 budget.\textsuperscript{127} The same scheme was introduced in public sector undertaking also. These schemes are providing Social Security for the workers in the organized sectors. All employees specifically Central Government Employees enjoy Social Security to the maximum extent.

To ensure \textit{Social Security to Unorganized Sector}, the Government of India has formulated the following schemes like \textit{Public Distribution System (PDS)}, \textit{Targeted Public Distribution System (TPDS)}, \textit{Annapurna Scheme}, \textit{Antgodaya Anna Yojana} and \textit{Mid-day Meal Scheme (MDMS)} – these schemes specifically provides Food Security to all age groups in unorganized sector. Similar kinds of schemes are introduced by Government for providing employment opportunities in unorganised sector. These schemes are \textit{Food for Work Programme, Jawahar Rozgar Yojana (JRY), Sampoorna Gram Samridhi Yojana (SGSY), Jawahar Gram Samiridhi Yojana (JGSY), Employment Assurance Scheme (EAS) and Pradhan Mantri Gram Sadak Yojana (PMGSY)}. Schemes like \textit{National Old Age Pension Scheme (NOAPS), National Maternity Benefit Scheme (NMBS) and Janani Suraksha Yojana (JSY)} are undertaken to provide Social Security for workers in unorganized sector.

The Schedule-I of the Unorganized Workers’ Social Security Act, 2008 has enumerated following Social Security Schemes for unorganized sector workers. These are as\textsuperscript{128} \textit{Indira Gandhi National Old Age Pension Scheme, National Family Benefit Scheme, Janani Suraksha Yojana, Handloom Weavers’ Comprehensive Welfare Scheme, Handicraft Artisans’ Comprehensive Welfare Scheme, Pension to

\textsuperscript{127} \textit{Id}, p.122.
\textsuperscript{128} Schedule-I of the Unorganized Workers’ Social Security Act, 2008.
Master Craft Persons, National Scheme for Welfare of Fishermen and Training and Extension, Janshree Bima Yojana, Aam Admi Bima Yojana and Rashtriya Swasthya Bima Yojana.

Public Distribution System was introduced by Government in 1960 through which wheat, rice, sugar and kerosene distributed at fair price shops (FPS). It played vital role in Government’s Economic Policy for ensuring availability of food grains at affordable prices. It is an important strategy for poverty eradication and intended to serve as a safety not for the poor people. It was extended to tribal blocks and areas of high incidence of poverty in the 1970s and 1980s.\footnote{Report of the Working Group on Reforms in the Public Distribution System and Better Targeting of Food Subsidies, available at: planningcommission.gov.in/aboutus/committee/wrkgrp12/pp/wg-pds.pdf (Visited on June 16, 2014).}

It is felt that the Public Distribution System was not adequately served the population of Below Poverty Line (BPL). For the purpose, the Government of India has introduced the Targeted Public Distribution System (TPDS) in 1997 with special focus on the poor. Under this Scheme States Governments are required formulate to identification of the poor family for delivering of food grains and their distribution in a transparent and accountable manner. The Scheme was mainly introduced for providing food grains to below poverty line (BPL) households in India.\footnote{India Year Book 2009, 432 (Publication Division, MoI&B, New Delhi, 2009).} Under the Scheme at present 35 kg. of food grains is allocated to poor families. In Annapurna Scheme was introduced by Ministry of Rural Development in 2000-2001. The Scheme provides 10 kg. of food grains to indigent Senior Citizens aged above 65 years who are even though eligible to get National Old Age Pension Scheme (NOAPS) but not getting the pension, covered under the scheme.\footnote{Id, at 425.}
In Antyodaya Anna Yojana, Scheme was launched in December 2000 to make Targeted Public Distribution System (TPDS) focused and targeted towards the poorest section of population. The Scheme contemplated identification of one crore poorest of the poor families from amongst the BPL families covered under TPDS. The Scheme provides highly subsidized rate of Rs.2/- per kg. for wheat and Rs.3/- per kg. for rice. The Scheme issued 25 kg. per family per month initially. Now it increased to 35 kg. per family per month with effect from 1st April 2002.\textsuperscript{132} The Mid-day Meal (MDMS) Scheme was launched by Ministry of Human Resource Development, Department of Education with effect from 15\textsuperscript{th} August 1995. The Scheme provides cooked / processed hot meal to students in Primary Schools free of cost @ 100 gram per child every school day. It contained with a minimum content of 300 calories and 8-12 gm. of protein each day of school for a minimum of 200 days. The food grains also distributed 3 kg. per student per month for 9-11 month in a year. The Mid–Day Meal Programme is extended summer vacation also where drought affected area.\textsuperscript{133}

The National Food for Work Programme has been launched with effect from 13.10.2004. The Scheme is implemented in 150 most backward Districts of the Country for the generation of supplementary wage employment and providing of food security through creation of need–based economic, social and community assets in these Districts. Most of the backward Districts were benefited in these Scheme specifically tribal belts. The Scheme has provided 100 days of employment at minimum wages for at least one able–bodied person from each household in the Country.\textsuperscript{134} The Scheme is centrally sponsored one. Food grains will be provided to States free of cost for implementing the Scheme. The Jawahar Rozgar Yojana (JRY)

\textsuperscript{132} Id, at 432.
\textsuperscript{133} Id, at 422-423.
\textsuperscript{134} Id, at 431.
Scheme was started on 1st April 1989. The Scheme was merged two existing programmes—National Rural Employment Programme (NREP) and Rural Landless Employment Guarantee Programme (RLEGP). The contribution sharing of cost 80:20 between Centre and State Governments. The main objective of the Scheme is to provide additional gainful employment for the unemployed and under-employed persons in rural areas. The main objective is to create sustained employment by strengthening rural economic infrastructure and assets in favour of rural poor for their direct and continuing benefits. The target group of the Scheme is Below Poverty Line families. The preference is given to Scheduled Castes, Scheduled Tribes and freed bonded labourers. Thirty percent of the employment opportunities have been reserved to women. The Gram Panchayats has played vital role for implementing this scheme.135

The Sampoorna Grameen Rozgar Yojana (SGRY) was launched by the Ministry of Rural Development on 25th September 2001. The Ministry has reviewed the ongoing Schemes of the Employment Assurance Scheme (EAS) (the only additional wage Employment Scheme for rural areas), the Jawahar Gram Samridhi Yojana (JGSY) (a rural infrastructure Development Scheme) and merged there into Sampoorna Grameen Rozgar Yojana. It is a mainly Food Security Scheme and improve the nutritional levels in all rural areas. The Scheme also provides additional and supplementary wage employment. The secondary objective is the creation of durable community, social and economic assets and Infrastructural Development in rural areas. Under the Scheme, preference is given to BPL families for providing

135 Available at: www.planningcommission.nic.in (Visited on June 15, 2014).
wage employment under SGRY and poor families above the poverty line can also be offered employment under NRGEA.\textsuperscript{136}

The Pradhan Mantri Gram Sadak Yojana (PMGSY), 2000 Scheme was launched on 25\textsuperscript{th} December 2000 as a centrally sponsored Scheme. The Scheme is to provide road connectivity in rural areas of the Country. The programme envisages connecting in all habitations with a population of 500 persons and above in plain areas and 250 persons and above in Hilly, Tribal areas. Under Bharat Nirman, goal has been set to provide connectivity to all the habitations with population of more than 1000 in the plain areas and habitations with a population of 500 or more in Hilly and Tribal areas in a time-bound manner by 2009. The systematic upgradation of the existing rural road network is an integral component of the scheme.\textsuperscript{137} Article 41 of the Constitution of India directs the State to provide assistance to its Citizens in case of unemployment, old age, sickness and disablement and in other cases of underserved want within the limit of its economic capacity and development.\textsuperscript{138} The Government of India has introduced the National Social Assistance Programme (NSAP) in 1995 on basis of above said directives. It lays down foundation to a National Policy for Social Assistance for the poor. The NSAP aims at ensuring minimum National Standard for Social Assistance in addition to the benefits that State are currently providing or might provide in future. At present NASP components includes\textsuperscript{139} the Indira Gandhi National Old Age Pension Scheme (IGNOAPS), National Family Benefit Scheme and Annapurna.

The Indira Gandhi National Old Age Pension Scheme (IGNOAPS) was launched by Government of India on 19\textsuperscript{th} November 2007 as a centrally sponsored

\begin{footnotesize}
\begin{enumerate}
\item Supra note 130 at 786.
\item Id, at 787.
\item Article 41 of the Indian Constitution, 1950.
\item Supra note 130 at 790.
\end{enumerate}
\end{footnotesize}
Scheme. It provides Rs.200/- per month per beneficiary by way of Central Assistance to all persons who are 65 years of higher and belonging to a family living Below Poverty Line. Earlier the National Old Age Pension Scheme (NOAPS) was launched by Government of India on 15th August 1995 as a major component of NSAP. The number of beneficiaries under IGNOAPS estimated to reach 160 Lakh persons as compared to 87 Lakh under NOAPS. The amount of old age pension was initially dilated as Rs.75/- per month and increased Rs.200/- per month with effect from 1st April 2006. The States were urged to contribute at least another Rs.2000/- so that an old age pension beneficiary could get at least Rs.400/- per month. The National Family Benefit Scheme (NFBS) is one of the components of the National Social Assistance Programme. It came to affect on 15th August, 1995. It is a Centrally Sponsored Programme under which 100% Central Assistance is extended to all States / Union Territories. It is providing social assistance benefits to poor family living under the Below Poverty Line. Under the Scheme, the benefit is provided to Rs.10,000/- in case of death of the primary bread winner of the family.

The National Maternity Benefit Scheme (NMBS), 1995 is also one of the components of the National Social Assistance Programme (NSAP). The Scheme provides for the payment of Rs.500/- per pregnancy to women belonging to poor households for pre-natal and post-natal maternity care up to first two live births. The benefit is provided to eligible women who attained age of 19 years and above. Annapurna Scheme was introduced on 1st April 2000 to provide 10 Kg. of food grains per month free of cost to eligible beneficiaries. The Scheme could not be covered

140 Supra note 126 at 74.
141 Supra note 130.
142 Available at : www.pbplanning.gov.in (visited on May 15, 2014).
143 Available at : www.planningcommission.nic.in (visited on May 15, 2014).
those who are covered under the National Old Age Pension Scheme and National Family Assistance Scheme. Janani Suraksha Yojana (JSY) was launched by Ministry of Health and Family Welfare on 12th April 2005. The Scheme provides safe motherhood intervention under the National Rural Health Mission (NRHM). Its main objective is to reduce maternal and neo-natal mortality. The Scheme is promoting institutional delivery among the poor pregnant women.

Handloom Weaver’s Comprehensive Welfare Scheme (HWCWS) comprises of two separate Schemes. These Schemes are Health Insurance Scheme (HIS) and Mahatma Gandhi Bunkar Bima Yojana (MGBBY). The Health Insurance Scheme provides health insurance to the Handloom Weavers. Mahatma Gandhi Bunkar Bima Yojana (MGBBY) provides Life Insurance cover in case of natural or accidental death and total or partial disability due to accident. Under the Health Insurance Scheme, the total benefits of Rs.15,000/- is available to four members of the family. The Scheme also covered ancillary workers. The minimum contribution of workers under the Scheme is Rs.50/- per annum. Under the Mahatma Gandhi Bunkar Bima Yojana provides covered of Life Insurance for Handloom Weavers and ancillary workers. The annual premium is Rs.760/- paid by Government of India, Rs.100/- by Life Insurance Corporation and Rs.80/- paid by individual beneficiary. This Scheme also provides Rs.300/- (per quarter per child) as Scholarship to their children studying in Class-IX to XII. This Scheme is extended to every five year plan.

Handicraft Artisans Comprehensive Welfare Scheme (HACWS) consists of the Rajiv Gandhi Shilpi Swasthya Bima Yojana and the Bima Yojana for Handicrafts Artisans. The objective of Rajiv Gandhi Shilpi Swasthya Bima Yojana is to enabling

---

144 Supra note 130 at 791.
145 Id, at 498.
146 Available at: www.wcd.nic.in (visited on June 9, 2014).
the artisans’ financially to access to the best healthcare facilities in the Country. This Scheme covers four members in artisans’ family including individual beneficiary which is comprises of spouse and out of three i.e. dependent parents and children. Under the Scheme, Contribution of Government of India is Rs.725/- per annum and contribution by the Handicrafts Artisans is Rs.75/- per annum. The Scheme is to cover people between age group of 1 day to 80 years. The objectives of Bima Yojana for Handicrafts Artisans are to provide Life Insurance Protection to the Handicrafts Artisans which includes male and female artisan workers between the age group of 18–60 years. The Scheme contents is Janashree Bima Yojana life insurance coverage extended towards natural death Rs.30,000/- per member, accidental death is Rs.75,000/- per member and for permanent partial disability is Rs.37,500/- per member. Under the Scheme, the annual premium charged would be Rs.200/- per annum in which Rs.100/- is to be borne by LIC from its Social Security Fund, Rs.60/- from Government of India (Office of the Development Commissioner (Handicrafts) and remaining Rs.40/- from individual beneficiary. The objective of the Pension to Master Craft Persons Scheme is to provide pension for senior master person above 60 years of age who are the recipients of National Awards or National Merit Certificate or State Awards in Handicrafts. They are provided to pension benefits for disseminating their knowledge to the younger generation.

The National Scheme for Welfare of Fishermen and Training and Extension was launched in 1992–1993 under the title, ‘National Scheme of Welfare of Fishermen’. The objective of the Scheme is to provide basic civic amenities and socio-economic

---

147 Available at:www.mssewb.org (visited on June 9, 2014).
148 Id.
149 Id.
150 Jain Varinder, The Long Road to Social Security 25 (Hivos Knowledge Programme, Trivandrum, 2010).
security to the fishermen. This Scheme has components\textsuperscript{151} of development of model fishermen village, group accident insurance for active fishermen, saving cum relief and training and extension. The Development of Model Fishermen Village, component of the Scheme is to provide basic civic amenities such as housing, drinking water, community hall etc. to the fishermen. For the obtainment of benefit, the village must not have less than 10 houses. The eligibility criteria for tube-well are the Village that must have at least 20 houses and for community hall, it must have at least 75 houses. The Scheme provides Rs.50, 000/- for a house, Rs.30, 000/- for tube-well and Rs.1, 75,000/- for community hall.\textsuperscript{152} The Group Accident Insurance for Active Fishermen, this component has engaged the fishermen actively in fishing. It provides an insurance cover against disability or accidental death. They are insured for one year for Rs.1 Lakh in case of accidental death or permanent total disability and Rs.50,000/- for permanent partial disability.\textsuperscript{153} The component of the Saving cum Relief Scheme is to provide Financial Assistance to the fishermen during lean season when fishing is generally banned. The component urged fishermen to pay Rs.600/- as a contribution for during fishing period of nine months in a year. Under this component the Central Government and State Government contributes Rs.1, 200/- and plus Rs.600/- of fishermen, total amount of Rs.1, 800/- is distributed to the fishermen at the rate of Rs.600/- per month for months of lean season.\textsuperscript{154} Under the component of Training and Extension urged Government to set up Training Centres for providing training to the fishermen, updating and upgrading their knowledge and skills in modern fishing technology and for doing so financial assistance also provided to States.\textsuperscript{155} The

\textsuperscript{151} Id. at 20.
\textsuperscript{152} Id.
\textsuperscript{153} Id.
\textsuperscript{154} Id.
\textsuperscript{155} Id.
**Janshree Bima Yojana (JBY)** has replaced the *Social Security Group Insurance Scheme (SSGIS)* and *Rural Group Life Insurance Scheme (RGLIS)*. It came into force on 10\(^{th}\) August 2000 with objective of providing life insurance cover to Rural and Urban Poor who live below poverty line or in the margin prescribed 45 occupational groups by Government of India.\(^{156}\) It is implemented through the Life Insurance Corporation of India (LIC). The Scheme urges for the payment of an annual premium of Rs.200/- per member. The 50\% of amount to be paid by the beneficiary or the nodal agency or the State remaining 50\% is met from the Social Security Fund contributed by the Government of India as it maintained by the LIC. The eligibility criteria urge the beneficiary to be in age group of 18 to 60 years.\(^{157}\)

**The Aam Admi Bima Yojana (AABY)** was launched by Government of India on 2\(^{nd}\) October 2007 with objectives to provide death and disability coverage to rural landless households. The Yojana provides insurance coverage to the head of the family or one earning member is the family of *Rural Landless Household (RLH)*. The benefit under the Scheme is to provide Rs.30,000/- in case of natural death, Rs.75,000/- for death or disability due to accident and Rs.37,500/- for loss of one eye or limb in an accident. The Scheme also provides scholarship of Rs.100/- per month to a maximum of two children of the beneficiary studying between 9\(^{th}\) to 12\(^{th}\) Standard from 1\(^{st}\) July to December 31\(^{st}\) and 1\(^{st}\) January to June 31\(^{st}\) of every year. The premium is Rs.200/- per annum, of which 50\% to be borne from the Fund created by Central Government for this purpose and balance of 50\% is contributed by the State Government.\(^{158}\)

\(^{156}\) *Id.*, at 21-22.

\(^{157}\) *Id.*

\(^{158}\) *Id.*, at 23.
The Rastriya Swasthya Bima Yojana was launched by Government of India on 1\textsuperscript{st} October 2007 after National Rural Employment Guarantee Scheme (NREGS). The Scheme was covered most of the population in the Country. It has emerged as the major National Health Insurance initiative for containing the vulnerability of poor households during medical emergencies. It provides support to the Below Poverty Line families in case of hospitalization.\(^{159}\) The benefits are limited to five members in a family and the insurance coverage is up to Rs.30,000/- per family per annum. The Scheme directs to issue of Smart Card to the beneficiary so as to facilitate cashless transactions. It specifically provides benefit to Below Poverty Line families. It is implemented by the State Government through Insurance Companies. The premium amount is shared by the Centre and State in the ratio of 75:25 and 90:10 in the case of States in North Eastern Region and Jammu and Kashmir.\(^{160}\) The building and other construction workers also covered under this Scheme. The Government has stipulated that the premium amount for the Scheme should be paid from the fund collected by the State Government under the Building and other Construction Workers Act, 1996.\(^{161}\) The above Social Security Benefits especially the contingent Social Security has been provided to Indian Workforce. As per the estimates provided by the National Commission for Enterprises in the Unorganized Sector (NCEUS), the Unorganized Workforce Constitutes 92.37\% out of which 86.01\% eke out their living by performing various activities related to the Unorganized Sector. The Organized Segment in Unorganized Sector is 6.36\%.

The above mentioned social security programmes were recognized under schedules-I of the the Unorganised Social Security Act, 2008. These programmes

\(^{159}\) Id, at 11.
\(^{160}\) Id, at 12.
\(^{161}\) Id.
provide Social Security in the Indian Population as directives envisaged by Article 41 and 42 of the Constitution. It is a basic Fundamental Human Rights as recognized by International Human Rights Law incorporated into India.

c) Judicial Incorporation

The preamble of the Indian Constitution has proclaimed that India is a Socialist State. The principal aim of ‘socialism’ is to eliminate inequalities in income and status and standards of life. The State should strive to promote the Welfare of the People by securing and protecting as effectively as it may a Social Order in which justice, Social, Economic and Political, shall inform all the institution of the national life. Tony Benn explains socialism in the following words:

“Socialism is, first of all, a protest against the material and cultural poverty inflicted by capitalism on the mass of the people. It expresses a concern for the Social Welfare of the oppressed, the unfortunate and the disadvantaged. It affirms the values of equality, a classless Society, freedom and democracy. It rejects the capitalists and its competitive ethos as being inefficient in its use of resources..... They (Socialists) want a new system, whether by reform or revolution, in which productive wealth is owned and controlled by the community and used for communal ends”.

Therefore Indian Courts has applied Socialism in orderly route on concerned with bringing about Socialism. The international human rights law has recognized that right to Social Security as a basic fundamental right. The Supreme Court of India has incorporated the right to Social Security into India by interpreting the concept of Socialism as envisaged under Part-IV and preamble of the Constitution.

In Kesharanda Bharathi v. State of Kerala case, Hon’ble Justices Shelat Grover, Hegde and Mukherjee had held that the mandate of Government is to build a

---

162 Article 38(2) of the Indian Constitution, 1950.
163 Id, Article 38(1).
166 AIR 1973 SC 1641.
Welfare State Par with Directive Principles of State Policy (DPSP’s). The Court has held that the principle of Welfare State is one of the basic structures of the Constitution. Further held that the introduction of the word ‘Socialist’ in the preamble emphasized that the building up of a Welfare State as mantled was the road to the contemplated Socialist State.\(^{167}\)

The Supreme Court in *Atam Prakash v. State of Haryana*\(^{168}\) while deciding Constitutional validity of Sec.15 of the Punjab Pre-emption Act, 1913 held that the interpretation of the Constitution would be promoted the march and progress towards a Socialistic Democratic State. The Court held that larger masses interest and their security should be kept in mind. Further Court has observed:

“Originally the Preamble to the Constitution proclaimed the resolution of the people of India, to Constitute India into a ‘Sovereign Democratic Republic’ and set forth ‘Justice, Liberty, Equality and Fraternity’, the very rights mentioned in the French Declaration of the Rights of Man as our hopes and aspirations. That was in 1950, when we had just emerged from Colonial Feudal rule Time passed. The peoples’ hopes and aspirations grew. In 1977, the 42\(^{nd}\) Amendment proclaimed India as a “Socialist Republic’. The word ‘Socialist’ was introduced into the Preamble to the Constitution. The implication of the introduction of the word ‘Socialist’, which has now become the centre of hopes and aspirations of the people - a beacon to guide and inspire all that is enshrined in the Articles of the Constitution is clearly to set up a ‘vibrant throbbing Socialist Welfare Society’ in place of a ‘feudal, exploitative society’. Whatever Articles of the Constitution whose validity in sought to be questioned, we must strive to give such an interpretation as will promote the March and progress towards a Socialistic Democratic State”\(^{169}\).

In this case, the Hon’ble Court has considered the Welfare of the people is paramount. The principle laid down Part-IV of the Constitution are to inform all the Institutions of the State that whenever, a question of interpretation arises, the interpretation should be taken in sprit of the Directive Principles. The Directive Principles has emphasized that Welfare of People is paramount consideration of the State while Governing the State.

\(^{167}\) Supra note 164 at 140.
\(^{168}\) 1986(2) SCC.249.
\(^{169}\) Supra note 164 at 141.
The Court in Randhir Singh v. Union of India\textsuperscript{170} has considered in this case that equal pay for equal work and emphasized that improvement of working conditions to workers in peril conditions. The Court observed:

“\textit{The Preamble to the Constitution declares the solemn resolutions of the people of India, to Consttute India into a Sovereign, Socialist, Democratic and Republic. Again the word ‘Socialist’ must mean something. Even if it does not mean ‘to each according to his need’, that it must at least mean ‘equal pay for equal work’ is expressly recognized by all Socialist Systems of Law….. Indeed this principle has been incorporated in several Western Labour Codes too. \textit{The Preamble of the Constitution of the International Labour Organization recognizes the principle of ‘equal remuneration for work of equal value’ as constituting one of the means of achieving the improvement of conditions, ‘involving such injustice, hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the word are imperiled’. Construing Articles 14 and 16 in the light of the Preamble and Art. 39(d), we are of the view that the principle of ‘Equal pay for Equal work’ is deducible from those Articles”}\textsuperscript{171}

The Supreme Court in D.S. Nakara v. Union of India\textsuperscript{172} expressly recognized the right to Social Security while deciding Armed forced persons’ Computation of Pensions under Central Civil Service (Pension) Rules, 1972 and its Regulations. The Court held that the basic frame work of ‘Socialism’ is to provide a decent standard of life to the working people and specially provide security from cradle to grave through a System of Social Security. Justice D.A. Desai after approving Randhir Singh case judgment and after referred to the Preamble posed the question as to what a Socialist republic implied and said:

“\textit{What does a Socialist Republic imply? Socialism is a much – misunderstood word. Values determine Contemporary Socialism pure and simple. But it is not necessary, at this stage, to go into all its ramifications. The principal aim of a Socialist State is to eliminate inequality in income, status and standard of life. The basic frame work of Socialism is to provide a decent standard of life to the working people and especially provide security from cradle of grave. This amongst others, on economic side, envisaged economic equality and equitable distribution of income. This is a blend of Marxism and Gandhism learning heavily towards Gandhism Socialism}”\textsuperscript{173}

\textsuperscript{170} AIR 1982 SC 879.
\textsuperscript{171} Supra note 164 at 141-142.
\textsuperscript{172} AIR 1983 SC 130.
\textsuperscript{173} Supra note 164 at 142.
Justice D.A. Desai explained what a Socialist State in above manner and explained duty to the Socialist State for the child, the youth, the adult, the aged and the infirm in the following: “it was such a Socialist State which the preamble directs the Centres of Power Legislative, Executive and Judiciary to strive to set up. From a wholly feudal exploited slave society to a vibrant, throbbing Socialist Welfare Society is a long march but during this journey to the fulfillment of goal every State action taken must be directed, and must be so interpreted, so as to take the Society one step towards the goal”. 174

The Court held that evolutionary Socialism must be designed to suit Indian people’s for fulfill needs and aspirations in social, economic and cultural sphere.

The Supreme Court in *Air India Statutory Corporation v. United Labour Union*175 has held that in the event abolition of contract labour, the tripartite relationship becomes bi-partite and the principal employer should absorb the contract workers and regularize their services i.e. automatic absorption. This judgment provided boost to the contract workers. This judgment was recognized to Social Security for Contract Workers. But, judgment was referred to Constitutional Bench along with similar cases, i.e. *Steel Authority of India Ltd. v. National Union Waterfront Workers*,176 the Constitutional Bench of the Supreme Court has reversed the *Air India Statutory Corporation* judgment of stating that the Contract Labour Act does not provide for automatic absorption of Contract Workers unless sham arrangement. But in *Air India case*, a three Judge Bench of the Supreme Court has explained the concept of social justice in Article 38 as follows:

---

174 *Id.*
175 *AIR 1997 SC 645.*
176 *(2001) 7 SCC 1.*
“The concept of "social justice" which the Constitution of India engrafted, consists of diverse principles essential for the orderly growth and development of personality of every citizen. "Social justice" is thus an integral part of justice in the generic sense. Justice is the genus, of which social justice is one of its species. Social justice is a dynamic device to mitigate the sufferings of the poor, weak, dalits, tribals and deprived sections of the society and to elevate them to the level of equality to live a life with dignity of person. Social justice is not a simple or single idea of a society but is an essential part of complex social change to relive the poor etc. From handicaps, penury to ward off distress and to make their life livable, for greater good of the society at large. In other words, the aim of social justice is to attain substantial degree of social, economic and political equality, which is the legitimate expectation and constitutional goal. Social security, just and humane conditions of work and leisure to workman are part of his meaningful right to life and to achieve self-expression of his personality and to enjoy the life with dignity. The State should provide facility and opportunities to enable them to reach at least minimum standard of health, economic security and civilised living while sharing according to their capacity, social and cultural heritage. In a developing society like ours, steeped with unbridgeable and ever-widening gaps of inequality in status and of opportunity, law is a catalyst, rubicon to the poor etc, to reach the ladder of social justice. What is due cannot be ascertained by an absolute standard which keeps changing, depending upon the time, place and circumstance. The constitutional concern of social justice as an elastic continuous process is to accord justice to all sections of the society by providing facilities and opportunities to remove handicaps and disabilities with which the poor, the workmen etc, are languishing and to secure dignity of their person. The Constitution, therefore, mandates the State to accord justice to all members of the society in all facets of human activity. The concept of social justice embeds equality to flavour and enliven the practical content of life. Social justice and equality are complementary to each other so that both should maintain their vitality. Rule of law, therefore, is a potent instrument of social justice to bring about equality in results. It was accordingly held that right to social justice and right to health were held to be Fundamental Rights.”

The larger Bench of the Supreme Court in Consumer Education and Research Centre v. Union of India177 has considered workers right to health in Asbestos Industries. The Court held that “right to life includes right to livelihood, better standard of living, hygienic conditions in working place and leisure. Right to health and medical care to protect health and vigour, while in service or after retirement was held a fundamental right of a worker under Article 21 read with Articles 39(e), 41, 43, 48-A and all related Constitutional Provisions and Fundamental Human Rights to make the life of workman meaningful and purposeful with dignity of person”.

The Court further observed that “Social justice is a fundamental right and the Directive Principles in our Constitution are fore-runners of the U.N.O. Convention on Right to Development as inalienable human right and every persons and all people are entitled to participate in, contribute to and enjoy economic, social cultural and political development in which all human right, fundamental freedoms would be fully

177 (1995) 3 SCC 42.
realised. It is the responsibility of the State as well as the individuals, singly and collectively, for the development taking into account the need for fuller responsibility for the human rights, fundamental freedoms as well as the duties to the community which alone can ensure free and complete fulfilment of the human being. They promote and protect an appropriate social and economic order in democracy for development. The State should provide facilities and opportunities to ensure development and to eliminate all obstacles to development by appropriate economic and social reforms so as to eradicate all social injustice. These principles are imbedded, as stated earlier, as integral part of our Constitution in the Directive Principles. Therefore, the Directive Principles now stand elevated to inalienable fundamental human rights. Even they are justiciable by themselves. Social and economic democracy is the foundation for stable political democracy. To make them a way of life in the Indian polity, law as a social engineer, is to create just social order, remove the inequalities in social and economic life and socio-economic disabilities with which people are languishing; and to require positive opportunities and facilities as individuals and groups of persons for development of human personality in our civilised democratic set up so that every individual would strive constantly to rise to higher levels. Dr. Ambedkar, in his closing speech in the Constituent Assembly on November 25, 1949, had lucidly elucidated the meaning of social and political democracy. He stated that it means a way of life which recognized liberty, equality and fraternity as the principles of life. They form an integral union. One cannot divorce from the other; otherwise it would defeat the very purpose of democracy. Without equality, liberty would produce supremacy of the few over the many equality without liberty would kill the initiative to improve the individual’s excellence, political equality without socio-economic equality would run the risk of democratic institutions to suffer a setback. Therefore, for establishment of just social order in which social and economic democracy would be a way of life inequalities in income should be removed and every endeavour be made to eliminate inequalities in status through the rule of law. "Socialism" brought into the preamble and its sweep elaborately was considered by this Court in several judgments. It was held that the meaning of the word "socialism" in the Preamble of the Constitution was expressly brought in the Constitution to establish an egalitarian social order through rule of law as its basis structure.”

The Court while deciding the validity of alienation of lands assigned to Scheduled Tribes in Murlidhar Dayandeo Kesekar v. Vishwanatha Pandu Barda has recognized Social Security. The Court has observed as

“in that context considering the Preamble, the Directive Principles and the Fundamental Rights includes the right to life, this court had held that economic empowerment and social justice are Fundamental Rights to the tribes. The basic aim to the welfare State is the attainment of substantial degree of social, economic and political equalities and to achieve self-expression in his work as a citizen, leisure and social justice. The distinguishing characteristic of the welfare State is the assumption

---

by community acting through the State and as its responsibilities to provide the means, whereby all its members can reach minimum standard of economic security, civilized living, capacity to secure social status and culture to keep good health. The welfare State, therefore, should take positive measure to assist the community at large to act in collective responsibility towards its member and should take positive measure to assist them to achieve the above.”

The Supreme Court while deciding in *Y.A. Mamarde v. Authority under Minimum Wages Act* held that the question of whether the workman entitled to double the wages with regard to over time work done by them on weekly rest days. The Court has recognized that right of Social Security of the workman and observed as:

“The anxiety on the part of the society for improving the general economic condition of some of its less favoured members appears to be in supersession of the old principle of absolute freedom of contract and the doctrine of laissez faire and in recognition of the new principles of social welfare and common good. Prior to our Constitution this principle was advocated by the movement for liberal employment in civilised countries and the Act which is a pre-constitution measure was the offspring of that movement. Under our present Constitution the State is now expressly directed to endeavour to secure to all workers (whether agricultural, industrial or otherwise) not only bare physical subsistence but a living wage and conditions of work ensuring a decent standard of life and full enjoyment of leisure. This Directive Principle of State Policy being conducive to the general interest of the nation as a whole, merely lays down the foundation for appropriate social structure in which the labour will find its place of dignity, legitimately due to it in lieu of its contribution to the progress of national economic prosperity.”

*In Harijinder Singh v. Punjab State Warehousing Corporation,* the Supreme Court has recognized the weaker sections right of Social Security. The question evolved in this case was action taken by employer for termination of appellant by retrenchment is contrary to law. The Court has held that aim of the principles of social justice is a dynamic devise to mitigate the sufferings of the poor, weak, dalits, tribals and deprived sections of the Society. The Court further observed:

“The preamble and various Articles contained in Part IV of the Constitution promote social justice so that life of every individual becomes meaningful and he is

---

179 (1972) 2 SCC 108.
180 2010 (1) SCR 591.
able to live with human dignity. The concept of social justice engrafted in the Constitution consists of diverse principles essentially for the orderly growth and development of personality of every citizen. Social justice is thus an integral part of justice in the generic sense. Justice is the genus, of which social justice is one of its species. Social justice is a dynamic devise to mitigate the sufferings of the poor, weak, dalits, tribals and deprived sections of the society and to elevate them to the level of equality to live a life with dignity of person. In other words, the aim of social justice is to attain substantial degree of social, economic and political equality, which is the legitimate expectation of every section of the society. In a developing society like ours which is full of unbridgeable and ever widening gaps of inequality in status and of opportunity, law is a catalyst to reach the ladder of justice. The philosophy of welfare State and social justice is amply reflected in large number of judgments of this Court, various High Courts, National and State Industrial Tribunals involving interpretation of the provisions of the Industrial Disputes Act, Indian Factories Act, Payment of Wages Act, Minimum Wages Act, Payment of Bonus Act, Workmen’s Compensation Act, the Employees Insurance Act, the Employees Provident Fund and Miscellaneous Provisions Act and the Shops and Commercial Establishments Act enacted by different States.  

The Supreme Court in *All India Reserve Bank Retired Officers Association v. Union of India*\(^\text{182}\) held that the pension is a basic social security and should be provided by government to employees for their long rendering services. The Supreme Court observed as:

“Pension is not a charity or neither trusty nor it is gratuitous payment solely dependent on the whim or sweet will of the employer. It is earned for rendering long service and is described as deferred portion of compensation for past service. It is in fact the nature of a Social Security plan to provide for the December of life of a superannuated employee. Such Social Security plans are constituent with the socio-economic requirements of the Constitution when the employer is a State within the meaning of Art.12 of the Constitution”.

*In People’s Union for Civil Liberties v. Union of India*,\(^\text{183}\) this case is popularly known as right to food case. In 2001 the peoples in the State of Rajasthan were dying due to starvation which was reported all over Country. The Court has issued direction to Government from time to time. The Court has issued orders

---

\(^{181}\) *Id.*, at para19.


\(^{183}\) (2013) 2 SCC 688.
calling upon state agencies to identify the needy within their jurisdiction and to assure that they receive adequate food. The Courts issued order said:

“in our Opinion, what is of utmost importance is to see that food is provided to the aged, infirm, disabled, destitute women, destitute man who are in danger of starvation, pregnant and lactating women and destitute children, especially in cases where they or members of their family do not have sufficient funds to provide food for them”. 184

The Court has directed Government “to provide food schemes and were to be implemented strictly. The food related schemes are Targeted Public Distribution System (TPDS), Antyodaya Anna Yojana (AAY), Mid-Day Meals Scheme (MDMS), National Old Age Pension (NOAP) Scheme, Annapurna Scheme, Integrated Child Development Scheme (ICDS), National Maternity Benefit Scheme (NMBS) and National Family Benefit Scheme (NFBS). TPDS is provided subsidized rice to the below poverty live family. The Court has applied humanist approach. Right to food is not charity. It should be an enforceable right as a part of adequate standard of living: It is considered as a component of “adequate standard of living as per Article 11(1) and (2) of ICESCR 1966”. 185 The Court has recognized that right to food as emanated from Article 21 of the Indian Constitution. The foremost duty of the Welfare State is to ensure that no one living as animal existence. The Government should provide Social Security to its citizens as contemplated under the Part-IV of the Indian Constitution. In the above way the Supreme Court of India has incorporated right to Social Security as envisaged International Human Rights Law into India.

5.3 Incorporative Process

With reference to Table- I and graph 1, the incorporative processes of right to social security have been critically analysed into four periods as given below.

184 Id, 689.
185 Id.
a) Period-I (1950-1966)

India got independence after the great Bengal famine of 1942-1943. During these period employees social security plans exhibited growth in coverage by contributory welfare scheme laws. The contributory laws provided Social Security contribution paid by workers or at the cost of the employer. The contribution scheme providing laws have been enacted during this period by Parliament. Majority of these laws were pre-constitutional laws. However the Social Security Schemes cover only organized workforce. The Scheme of Social Security is guaranteed to workers while insecurity arising out of sickness, accident, old age, etc. During this period Parliament has enacted the Workman’s Compensation Act, 1923, Employees State Insurance Act, 1948, Employees Provident Fund and Miscellaneous Provisions Act, 1952, Maternity Benefit Act and Industrial Disputes Act, 1947. These Acts main intention is to provide rights and benefits to the workman employed in various establishments. They have right to human dignity and if the workman is deprived of this right and benefits that would amount to violation of right to life enshrined under article 21 of the Constitution. During this period Parliament has enacted totally five Acts. This period shows that Parliament has considered Social Security to workers as important Human Rights. Similarly executives have formulated policies to ensure Social Security through three Schemes. The Planning Commission allocated funds for this purpose Rs.522 Crores under head of Social Welfare Programme during this period FYPs. The judiciary has not decided any case regarding right to Social Security.
b) Period-II (1966-1979)

The Parliament has enacted two enactments namely the Payment of Gratuity Act. The Act provides a scheme for the payment of gratuity to employees working in factories, mines, oil fields, plantations, ports, railway companies and shop or other establishments in which ten or more persons employed under the Act and it is one of the non-contributory laws. During this period, the executive formulated one programme. But they have allocated Rs.4989.77 Crores as a fund for development of welfare of the Backward Class people, Social Welfare Schemes and Labour Welfare, craftsman training, Hill and Tribal areas and North Eastern Council Development Scheme and Social and Community Services. During this period judiciary has explained socialist concept in two cases that socialist state to provide necessary welfare to people whenever assistance required, contingencies situation arises. Overall during this period the executive without formulating policies, sanctioned outlay to development of workers as already existing programmes.

c) Period-III (1979-1993)

The Parliament has not enacted any law regarding Social Security. But the Parliament has supervised existing laws where then properly implemented. If necessary the existing Act was amended by it. The executive formulated two programmes and allocated sufficient funds for development of Workers Welfare. During this period, the statutory welfare schemes has extended to mining industries i.e. coal, iron ore, limestone and Mica. These industries employees obtained Social Security measures in case of sickness and disability. These were provided to employees through Employees State Insurance Scheme, Employees Provident Fund, Gratuity and Maternity benefit, etc. For this purpose, executives have allocated 5YP
Plan outlay of this period Rs.17795.43 Crores under the heads of Labour Welfare Programme and Social Welfare Programmes. During this period, the Judiciary played vital role to incorporate right to Social Security. The Court decided four cases. The Court categorically mentioned international human rights relating to right to social security while deciding statutory and constitutional provisions.

d) Period-IV (1993-2013)

During this period, the Indian Industrial Policy, 1991 has formulated. It was recognized Liberalization, Privatization and Globalization. The LPG recognized free flow of goods and liberalized custom barriers for free flow of goods one custom barrier to another custom barriers. During this period, the Special Economic Zones have been introduced in which various labour law application has been restricted even though certain welfare mechanisms have been guaranteed to rescue workers in such situations. During this period, the Parliament has enacted three progressive laws which are responsible for workers from unorganized sector to guarantee welfare security to them. The executive has formulated more schemes i.e. eighteen schemes which helps unorganized sector workers from various contingencies such as disability and sickness, etc. During this period the total 5YP outlay was Rs.118967.57 Crores. It was allocated under heads of social welfare, disability, social disadvantaged groups, National Social Assistance Scheme and Social Justice. More funds have been allocated because the National Unorganized Social Security Act, in its schedule prescribed Social Security should be provided under schedule enumerated contingencies. Hence, the responsibility of the state arises due to incorporation of international human rights related to social security. The judiciary has decided six cases in which right to Social Security has been incorporated. The Court held that
right to life includes right to livelihood, better standard of living, hygienic conditions in working place and leisure. Right to health and medical care should be provided when a worker faces such contingencies situation. The Supreme Court during this period actively incorporated right to Social Security.
Table-I

Trends in Incorporative Processes of Right to Social Security

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Legislative incorporation</td>
<td>5</td>
<td>2</td>
<td>Nil</td>
<td>3</td>
</tr>
<tr>
<td>Executive incorporation</td>
<td>3</td>
<td>1</td>
<td>2</td>
<td>18</td>
</tr>
<tr>
<td>Judiciary incorporation</td>
<td>Nil</td>
<td>2</td>
<td>4</td>
<td>6</td>
</tr>
</tbody>
</table>

Graph – 1

Trends in Incorporative Processes of Right to Social Security

![Graph showing trends in incorporative processes of right to social security](image-url)