Chapter 4

SOCIAL SECURITY IN INDIA: HISTORICAL DEVELOPMENT AND LABOUR POLICY

4.1. Pre-constitutional Era and the Roots of Social Security
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The underlying idea behind social security measures is that there is a duty on the society to protect the working class that contributes to the welfare of the society against hazards\(^1\). It protects not just the workman, but also his entire family in financial security and health care. The social security can be provided by institutional and non-institutional agencies. The non-institutional agencies existed from time immemorial and they are the backbone of the present social security programmes. India is a good example of having non-institutional form of social security measures in the world. The needy and unfortunate are seen protected in joint family set up and the caste system. The hardship due to unemployment, economic difficulties, old age, widowhood etc.,

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was taken care of by joint family system. It had a religious backing also. An additional help from individual and institutions was provided to them through the guilds, community and Panchayats, orphanages, widow homes and charity centers available during that time. This indicates that India had its own social security system of (1) self-sufficient village economy; (2) caste system; (3) joint family system; (4) organizations of charity. Following the development of liberalism and individualism fostered by the western influence, these roots of Indian society were shaken and ultimately lost its significance. The society, its culture and custom were affected a great deal by the foreign impact and a new society based on class gradually emerged. Industrialisation created a new class and this rising up class with its rural background and without social and material resources urgently necessitated systematic help from various social security agencies other than the traditional ones. The ideals of social security ultimately became a social responsibility largely depending on the resources and needs of the country. India is a country where economic resources are less and needs are more. The social security enactments that we find today in India are an amalgam of the ideals and principles emerged over the years.

4.1 Pre-constitutional Era and the Roots of Social Security

In the early historical times, people were living in a more secured or protected environment. As stated above, the system of the joint family, the guilds, the caste, and community panchayats and religious

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institutions have been providing protection to individuals from the evil consequences of various contingencies. The development of modern state totally changed the social set up in India and the state assumed the role of protector of people from evils. The philosophy of welfarism has resulted in legislative schemes designed to channel all economic activity for collective good.\(^3\) Originally, labour law was almost a part of private law but now it has become part of public law.

From the middle of 19\(^{th}\) Century to the end of First world war, the Indian industrial legislation was in the period of origin. It was through a slow and steady process that the industrial law took root in India. The Apprentices Act figures the first law introduced in India relating to labour.\(^4\) It was enacted for better enabling children to learn trades, crafts and to seek employment by which when they come to full age, they may gain a livelihood.\(^5\)

Cotton mills and jute mills that have been established during 1850s marked the beginning of factory system in India.\(^6\) The condition of workers in those mills were pathetic due to long working hours without any safety and security. Based on the principles of torts, Fatal Accidents Act, 1855 was enacted for providing compensation to legal

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3. See Supra n. 1.


heirs of these employees where death occurred by an actionable wrong.\footnote{Compensation was given only if it is proved in the Court of law that the accident was not due to obvious neglect of workers.}

Minimum rate of compensation, to some selected legal heirs and a restricted application were the main drawback of the said Act.

In 1859, Indian Merchant Shipping Act was passed. This Act was envisaged for regulating employment of seamen and to provide for their better health. In the same year Workmen’s Breach of Contract Act was passed which provided for criminal penalties for workers for breach of contract of service. In 1860, Employers and Workmen (Disputes) Act was passed and it provided for speedy and summary settlement of disputes between employers and workmen.\footnote{This Act was the forerunner of Industrial Disputes Act, 1947 which played an important role in modern industrial life.}

By 1881, factory system clearly emerged in India, but workers did not organize themselves simultaneously with the industrialization. The safety and working conditions of these workers were prime concerns for many members of the House of Lords and they argued for a legislation\footnote{See supra n. 6}. Thus in 1881, Indian Factories Act\footnote{It was re-enacted in 1911.} was passed. In order to improve the conditions of plantations labours, Island Emigration Act 1892 and to secure safe and healthy conditions of work in mines, Indian Mines Act, 1901 were passed.

It is evident that, all these early legislations were enacted in connection with specified classes of industries and did not extend to the
entire working class. The majority of the measures adopted were related to railways, shipping, factories, and mines. The progress of both industries and industrial laws was haphazard and inadequate. The attitude of government towards the workers' legitimate rights was that of opposition and non-interference. It was sincerely believed that any interference in employer-employee relationship would prove detrimental to both parties. This might be the reason for industrial enactments passed during this period happened to be limited. These were also scattered, limited in scope with respect to their coverage, and of minor importance and conservative in nature.

During and after the first world war period, there had been tremendous change in the attitude of state and society towards labour. ILO was established in 1919 which aimed at welfare of workers globally. India is a member since its inception. ILO has adopted many conventions and recommendations casting different types of liability on industry, Government and labour. Under the Montague-Chelmsford Reforms in 1919, the central legislature was given definite legislative authority to enact industrial laws. Using that power, in 1923, India passed a major enactment called Workmen’s Compensation Act, 1923, with an object to eliminate hardship caused to workmen injured, through providing prompt payment of benefits regardless of fault from their side and with minimum legal formalities. It imposed obligation upon employers to pay compensation to workers for accidents arising out of and in the course of

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11. Laissezfaire was the ruling doctrine of the day.
12. Among them India ratified only 3 conventions relating to workmen’s compensation, on occupational diseases and equality of treatment in accident compensation.
employment and for death and disablement\(^{13}\). In 1925, Government of India enacted another Act, Provident Fund Act, 1925.\(^{14}\) Royal Commission on Labour was appointed in 1929 which recommended a scheme for health insurance to industrial workers on a contributory basis (financed by employers along with small deductions from the wages of workers) and provisions against old age and payment of gratuity.

The Government of India Act, 1935 laid down the subjects on which Federal Legislature could pass industrial laws. During this period, industrial legislation grew in speed, volume, scope and underwent a great change in its nature. These enactments gave coverage to major field of industrial workers and their rights. These laws are found to be liberal as regards their contents and coverage and having far reaching importance and consequences. This pointed a change in governmental attitude from toleration to encouragement of worker’s aspirations.

During the period of 1919-1942, there was a great progress in modifying old laws\(^{15}\) and in enacting of new ones\(^{16}\). Some new enactments were passed for specifically addressing certain industrial

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13. The Act was amended 7 times during this period.

14. This Act is enacted with a view to set up a fund which is to be maintained by Government and Semi-government organizations.

15. Indian Merchant Shipping Act, 1923; Assam Labour and Emigration Act, 1893; Indian Mines Act, 1901; Factories Act, 1911 improved up in their scope and object. Employers and Workmen (Disputes Act, 1860 and Indian Fatal Accidents Act, 1855 were re-enacted as Workmen’s compensation Act and Indian Trade Disputes Act.

establishments. These were not merely intended for regulating employment in the industries but attempted to give better conditions of employment like shorter hours of work, weekly holidays, safety of premises, payment for overtime, rest period and paid holidays.

All these changes were made mainly due to the emergence of ILO. Apart from that, after first world war, India witnessed a rapid rise in nationalism. The British Government also tried to accommodate and adjust some of Indian demands. Indians were also given chance to administration on local subjects called transferred subjects. Thus the introduction of diarchy and rapid growth in industrialization gave more interest in labour matters.

Another phase when many significant development in the field of social security occurred on a firm and sound footing was the second world war. The war created an acute shortage of man and materials. This necessitated increased production and that required greater co-operation of labour. To ensure this a number of concessions were made to the working class under Defence of India Rules. The appointment of Dr.B.R.Ambedkar as labour member to the Viceroy’s Council infused keenness in government’s labour policy. In 1943, a committee called the ‘Standing Labour Committee’ was appointed by Government of India.

17. Mines Maternity Benefit Act, 1941; Indian Motor Vehicles Act, 1939; Indian Dock Labourer’s Act, 1934
18. Children (Pledging of Labour) Act, 1933; Payment of Wages Act, 1936; Employees Liability Act, 1938; Employment of Children Act, 1938; Weekly Holidays Act, 1942 are some of the new enactments passed during this period relating to labour. These new legislations extend to the entire working class as distinguished from workers in specific industry
19. Rule 81-A.
Constitution of this Committee and Indian Labour Conference effected remarkable changes in the attitude of Government towards labour. The committee was constituted for the purpose of formulating a scheme for health insurance for individual workers. Another committee was also appointed to make survey on the position of health conditions and health organizations in existence. All these provided for a forum for the discussion of labour matters. The two ILO publications viz; ‘Approaches to social security—an International Survey’ and ‘Social security—Principles and Problems Arising Out of War’\textsuperscript{20} highlighted the tendency in planning social security to bring under a single scheme for assuring maintenance in case of inability to work and to extend this to all the employees, employed or self employed, rural or urban.

The publication of Beveridge Report in England also had a remarkable impact on Indian scene. The Government of India made attempts to introduce sickness benefits in India. The provincial governments were entrusted with this task. But they doubted its success because of migratory nature of Indian workers and difficulty in locating them in villages. Shortage of medical staff for certification and treatment was yet another reason. About this, the E.S.I. Review Committee observed:

“Sickness is an important contributory cause of indebtedness with all that debt entails. Under existing conditions at the time of greatest need the worker may find himself destitute of resources, unable to take proper measures to restore his

\textsuperscript{20} Published in the year 1942 and 1947 respectively.
health and in difficulties regarding even in the means of subsistence.”

Recommendations of the ESI Review Committee were considered by Government of India and again referred to provincial governments. But no evidence was available to show that these efforts would become fruitful.

But in Bombay, the Textile Labour Enquiry Committee formulated sickness insurance scheme and recommended in its report that a compulsory and contributory insurance scheme in which the employer, the workers and the state to contribute has to be put in motion at Bombay and Allahabad initially and extended to other cotton textile centers in the province. Though the centre forwarded such schemes to states, none was implemented due to lack of interest of the provinces.

Government placed the matter in the First Labour Minister’s Conference held in New Delhi in 1940. In the same year Employees Conference held at Bombay under the joint auspices of All India Organization of Industrial Employers and the Employees examined the question of sickness insurance and favoured the tripartite contribution. The decision in Second Labour Minister’s Conference held in 1941, Third Labour Minister’s Conference held in 1942 and the ILO Conventions and recommendations forced Government of India to appoint a commission in 1943 under the Chairmanship of Professor B.R. Adarkar. The scheme formulated by him envisaged to cover only

perennial factories belonging to textile engineering, mineral and metal groups of industries. Government of India requested ILO to depute experts to examine Adarkar Report. ILO deputed M/s M.Stack and Rao for evaluating Adarkar Report and they suggested certain modifications relating to classification of workers, contribution benefits, and the organization of medical services and financial structure of the scheme.  

In 1947, India became independent and an interim government was formed which caused greater encouragement to worker’s legitimate ambitions and accelerated harmony in the industrial relations. The interim government formulated a five year programme for the welfare of the labour class. The significant features of the programme were:

(i) organization of the health insurance scheme;

(ii) revision of the Workmen’s Compensation Act;

(iii) central law for maternity benefit; and

(iv) extension to other classes of workers the right within specific limits to leave with allowances during sickness.  

Industrial Disputes Act enacted in 1947 introduced an adjudicating system where an industrial worker can raise an industrial dispute. Gratuity was also considered as a cause of industrial dispute and thus gratuity was recognized as a legal right.

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23. The modified Adarkar Plan is now the ESI Act, 1948.
Employee’s State Insurance Act was passed in 1948. It introduced a scheme of compulsory health insurance and benefits in the event of sickness, maternity and employment injury to workmen.

Mica Mines Labour Welfare Fund Act, 1946 and Coal Mines Provident Fund and Bonus Scheme Act, 1948 were enacted and these provided for levy of a cess on the output of the industry to finance housing and such other projects like nutrition, provision for water supply, educational and recreational facilities etc. of workmen employed in that sector.

Hence, in a nutshell, the government made many efforts to implement welfare provisions for the labour force in India, but due to lack of interest of provincial governments in its implementation and supervision did not yield the intended result.

4.2 Analysis of Social Security in Independent India

The socio-economic conditions of the poor and working class in India were highly depressing. Various committees and reports stressed those facts in different fora whenever they could. The submission before Constitutional Reforms Committee explained the pathetic condition and the necessity to ensure the right of workers. It said that certain fundamental rights of the working classes should be specifically declared so that Indian Parliament should make suitable laws to ensure fair rent and fixity of tenure to agricultural tenants from whom industrial workers are recreated, for the maintenance of health and fitness of workers, securing a minimum wage for them, the protection of motherhood, welfare of their children and the economic
consequences of old age, infirmity and unemployment\textsuperscript{25}. This is a part of the memorandum submitted to the sub-committee of Joint Committee on Indian Constitutional Reforms in 1933 and gave evidence that the priority to the right of labour included social security of labour also.

Another memorandum submitted by Mr. Shiv Rao on behalf of National Trade Union Federation to the same Committee contained demands such as the Constitution should contain a declaration of fundamental rights guaranteeing to all citizens of the federation \textit{inter alia}, freedom of speech, freedom of press, freedom of association, and in case of workers the right to strike, the right to work and provisions against old age invalidity etc., in view of the experience that the Indian workers have had with regard to the treatment meted out to them and their organizations during industrial disputes. The federation was convinced of necessity of insisting upon such fundamental rights being guaranteed in the interests particularly of the working classes\textsuperscript{26}.

These two memorandums are reiteration of the resolution adopted in April 1933 by special session of National Trade Union Federation at its Calcutta Session. They strongly recommended that the Constitution Act should contain a declaration of fundamental rights guaranteed to the workers. But in almost all discussions generally, there was a strong opposition to declaration of fundamental rights especially when there would be no effective machinery for enforcing them.

\textsuperscript{25} Report on Indian Constitutional Committee 1917-1918.

\textsuperscript{26} National Trade Union Federation Memorandum, pp.2213-2214 and Appendix A, Evidence, Indian Constitutional Reforms, Vol.12, pp.1932-33.
Apart from the discussion and memorandum submitted on the subject of fundamental right at the London Round Table Conference Sessions and at the meeting of Joint Committee on Constitutional Reforms, the Indian National Congress also passed a resolution on declaration of fundamental rights at its 45\textsuperscript{th} Session held in Karachi in March\textsuperscript{27} and it was modified in its 47\textsuperscript{th} Session in Calcutta in 1933\textsuperscript{28} and adopted under the heading “Fundamental Rights and Duties and Economic Programme”. It was based on the ideology that in order to end exploitation of the masses, political freedom must include real economic freedom of the starving millions. The resolution was divided under different heads and one among them related to labour. The rights of labour expressed in the resolution included securing decent standard of living, suitable legislation for securing living wage, healthy conditions of work, limited hours of labour, suitable dispute settlement machineries and maternity leave to women workers, protection against the economic consequence of old age, sickness and unemployment including protection of right to form unions\textsuperscript{29}.

This resolution expressed the main rights required or demanded by labour. It was comprehensive in character and reflected rights, economic, political and social in conformity with principle of justice.

A decade after, for the incorporation of fundamental right in Government of India Act, 1935, it was again discussed by special

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27. See http://education.nic.in/cd50years/12/8I/6E/8I6E0H01.htm
28. http://education.nic.in/cd50years/12/8I/6E/8I6E0H01.htm
29. www.indianyouthcongress.in/history045.htm
committee in 1945 for the purpose of collecting information regarding the future constitutional set up for India. A questionnaire was issued by the Committee. The first questionnaire was—“What are the fundamental rights which should be incorporated in future Constitution of India? What machinery would you suggest for the enforcement of such of those rights as are not justiciable or enforceable by court of law?30

Answers were submitted by several associations and individuals. It is worth to note the memorandum submitted by Prof.M.Venkitarangaiah among those submitted by individuals. It mentioned the distinction that was to be made between civil rights on the one hand and social and economic rights on the other. He wanted the incorporation of the two sets of rights in the Constitution, the former being enforceable in the courts of law and the latter not. He gave reasons for the distinction between the two sets of rights, the difficulties involved in respect of non-justifiable rights and the utility of social and economic rights in the constitutional set up.

According to Mr.Venkitarangaiah, the rights in non-justifiable character ought to be enforced because it involves positive action by state-legislature and administration and required large financial resources. He again explained that the rights not justiciable, were not ineffective as rights but “while enforcing some rights we have to look to courts and for enforcing others, we have to look into other political institutions”.31

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31. Ibid.
Sapru Committee finally in its “Constitutional Proposals” recommended that the declaration of fundamental rights was absolutely necessary for India not only for prescribing a standard of concept for legislatures, government and the courts but the rights must be divided into two (i) justiciable and (ii) non-justiciable and to provide suitable machinery for enforcement of both.\textsuperscript{32} The importance of this recommendation lies where both types of rights were recommended to be included in the body of the Constitution.

Sri B.N.Rao, Member of Constituent Assembly made an elaborate study of the fundamental rights to be embodied in the Constitution and of making criteria for incorporation of the same in the Constitution. He came to the conclusion that the chapter on Fundamental Rights be divided into Part A & B for the draft scheme placed before the members of Constitutional Assembly. According to him, Part A must be the fundamental principle of state policy and those were non-justiciable. The scheme he placed before members of Constitutional Assembly included—

“6. The state shall as far as possible, secure to each citizen;

(1) the right to work; (2) right to education; (3) right to maintain in old age and during sickness or loss of capacity to work; (4) right to rest and leisure.

7. The state shall ensure that the strength and health of workers, men and women and tender age of children shall not

\textsuperscript{32. Ibid.}
be abused and that they shall not be forced by economic necessity to take up occupations related to their sex, age or strength”\textsuperscript{33} and observed, “… none of the above provisions is stable for enforcement by the courts”\textsuperscript{34} and has given the status only as ‘moral precepts having education value’.\textsuperscript{35}

The Fundamental Rights Sub-Committee recorded that a difference should be drawn in the list of fundamental right between rights which were enforceable by appropriate legal process and provision which were in the nature of fundamental principles of social policy that was to regulate the governments concerned.\textsuperscript{36} During the constituent assembly debates the word “fundamental’ was replaced by ‘directive’ and Part II of Sir B.N.Rao’s draft was placed as “Fundamental Rights including Directive Principles of State Policy”.\textsuperscript{37}

The above stated brief history showed that the right of workers including social security was demanded to be included in Constitution as fundamental right but the nature of the right and the difficulty in its enforceability made its position in the subordinate category of non-justiciable right. Matters relating to Social Security are listed in the Directive Principles of State Policy and the subjects in the Concurrent

\textsuperscript{34} \textit{Id}. at p.22.
\textsuperscript{35} \textit{Ibid}.
\textsuperscript{37} \textit{Id}. at p.79.
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List 38. The provisions contained in Fundamental Rights and Directive Principles 39 of Constitution helped a lot for providing facilities to workmen and making effective provisions of public assistance.

Soon after the commencement of the Constitution, Five Year Plans were introduced in India in order to ensure social justice and better standard of life to the people. 40 In 1954 41, India declared as it adopted a socialistic pattern of society and this reshaped the labour policy.

In 1952, the Employees Provident Fund Act was passed on the basis of experience of provident fund schemes of coal mine workers and constant demand from employees. The Act provided for old age, invalidity and survivorship benefits to the workforce in the organized sector. 42 The Act now covers factories and establishments employing 20 or more employees in scheduled industries and other establishments notified by Central Government. The employees drawing salary up to

38. The social security issues mentioned in the Concurrent List viz., List III in the Seventh Schedule of the Constitution of India are Item No. 23: Social Security and insurance, employment and unemployment. Item No. 24: Welfare of Labour including conditions of work, Provident funds, employers’ liability, workmen’s compensation, invalidity and old age pension and maternity benefits.

39. Article 41 Right to work, to education and to public assistance in certain cases The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

Article 42 Provision for just and humane conditions of work and maternity relief The State shall make provision for securing just and humane conditions of work and for maternity relief


41. Constitution was amended and added the word ‘socialist’ to the preamble

42. The Amendment in 1976 extended the benefits and in 1982 extended to establishments employing 1000 or more workers.
Rs.6500/- per month are covered under the Act. There is a provision for voluntary coverage of a person even after he crosses the ceiling.  

Another social security measure in the form of benefit against unemployment was adopted in 1953 when an ordinance provided for lay-off and retrenchment compensation to industrial workers. The scope of unemployment benefit was extended after amendment in 1956 and 1957 to provide for compensation to workmen on transfer or closure of undertakings. Retrenchment covers all termination of workmen other than through voluntary retirement, superannuation, termination of the service of the workmen, after an expiry of an employment contract and termination on the basis of continued illness of workmen. 

The Maternity Benefit Act was passed in 1961 replacing all state laws on this subject. It applies to all establishments, factories, plantations and shops where 10 or more persons are employed. Maternity benefits are also provided under ESI Act and an insured woman is entitled to maternity benefit in the form of periodical

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43. During 1952, this Act covered 1.2 million workers employed in about 1400 establishments in 6 major industries, and in 1991 the Act covered 21.2 million workers in 2,99,000 establishments covering 177 industries.

44. 1971 Amendment in the Act provided for family pension and 1976 Amendment for Employees Deposit Linked Pension Scheme.

45. Labour Industrial Dispute Amendment Act, 1953 that amended the industrial Disputes Act, 1947.

46. 25-C of Industrial Disputes Act laid off workmen are entitled to a compensation equal to 50% of the total basic wages and dearness allowance for the laid-off period and in case of retrenchment workers have to be paid 15 days wages for every completed year of continuous service or any part there of in excess of six months.

47. It was again amended in 1973 & 1976 to enlarge its scope.
payments in case of confinement, miscarriage or sickness arising out of pregnancy. They are also entitled to medical care under the ESI scheme for maternity. The factories or establishment to which the provisions of ESI scheme apply are excluded from the purview of Maternity Benefit Act. But high salaried women above the wage ceiling under ESI Act are entitled to be benefited under this Act. There is no wage limit for coverage under the Maternity Benefit Act. The provisions under ESI Act for medical benefit are more comprehensive as they include medical care and maternity benefit than provision under Maternity Benefit Act.

Though in 1957 a study group on social security to work out a comprehensive social security scheme was appointed, their recommendations could not make any impact. Hence in 1966, a Committee on Labour Welfare and National Commission on Labour was appointed. The Committee on Labour Welfare was set up for examining the functioning of various welfare schemes in operation in industrial establishments and to suggest improvements. Both the Committee and the Commission submitted detailed reports in 1969. Apart from these legislative efforts, Committees and Commissions, a key role is seen played by Planning Commission.

4.3 Labour Policy; Social Security and Five Year Plans

The First Five Year Plan dealt with labour and industrial relations with a humanistic approach. It recognized the importance of

labour in the fulfillment of the targets of the plan and creating an economic order in the country. With this view, the first plan associated certain rights and obligations with the role which labour had to play.\textsuperscript{50} The rights included factors like adequate provision for the basic need of the workers in respect of food, clothing and shelter so as to enable them to remain healthy and efficient, provision for improved health conditions, wider provision for social security, better educational opportunities and increased recreational and cultural facilities; conditions of work that would safeguard the worker’s health and protection against occupational hazards, right to organize and to take lawful action in furtherance of their rights and interests. The plan called upon labour to realize the fact that in an undeveloped economy, it cannot build for itself but they have to make a substantial contribution\textsuperscript{51}. This will ultimately lead to peaceful industrial relations.

In the Plan, right to strike and lock out was recognized. Just settlement of claims was also given emphasis. The Commission also accepted the importance of conciliation and arbitration in dispute resolution and duty of state to provide machinery for settlement of disputes. The plan envisaged for establishing a tripartite body for determining norms and standards, standardization of wages with principles of social policy, profit sharing, permanent wage boards etc. Above all, a full and effective implementation of minimum wage legislations was the main recommendations in First Five Year Plan. The

\begin{footnotesize}
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\item[50.] Supra n. 2 at p.22.
\item[51.] The report said that, the working class performance functions vital to the maintenance of the community’s economic life.
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plan also stressed on improving working conditions of labour and for that purpose implementing legislation i.e., Factories Act, Mines Act, Plantation Act, Shops and Establishment Act etc. The plan assured:

“having placed his assets labour and skill at the disposal of the community, he should be assured for a reasonable measure of security against various natural and other risks to which he is exposed.”

Second Five Year Plan dealt with employment aspects in its Chapter 5. This plan gave importance to the employment opportunities with an objective of maximizing rate of growth output through the utilization of available resources as a means for economic development. The task is divided into three, firstly about providing employment opportunities for the existing urban and rural growth, secondly, providing natural increase in the labour force and lastly about those underemployed in agriculture and household activities to be provided with increased work opportunities.

With the adoption of the policy of socialistic pattern of society, the labour policy in the Second Plan was accordingly influenced. The Second Plan recognized that the goal of progressively speeding up production would mean that indiscipline, stoppage of production and indifferent quality of work would have to be guarded against. The Plan placed greater emphasize on mutual negotiations and voluntary arbitration in improving employer-employee relations. Important

52. Ibid.
development took place in the acceptance of Code of Discipline (1958) laying down specific obligation for the management and workers i.e., instituting programmes for worker’s education (1958), establishment of wage boards (1960), for fixation of wages etc.\textsuperscript{54} The main emphasis of the Second Five Year Plan was on the problem of unemployment and under employment. The plan gave high priority to the development of large scale joint stock enterprises on the one hand and village and small scale industries on the other for solving the unemployment problem.\textsuperscript{55}

During the Third Plan, apart from the fuller implementation of the schemes drawn up in the first two plans, social security measures were taken into consideration. The Third Five Year Plan declares the labour policy by emphasizing states’ responsibility in providing facilities and co-operative arrangements for settling disputes. It visualized that “the object is to secure not peace alone but higher levels of industrial efficiency and rising standard of life of working class”\textsuperscript{56}. Payment of Bonus Act, 1965; Shops and Commercial Establishments Acts in different states\textsuperscript{57}, Labour Welfare Funds Acts\textsuperscript{58} in many states were some remarkable improvements during this plan period. National Safety Council was set up in 1966. Under Minimum Wages Act, 1948, minimum wages were fixed and periodically revised by state governments in respect of various agricultural and other trades. The

\textsuperscript{54} Supra n.2 at p.22.
\textsuperscript{55} Id. at p.50.
\textsuperscript{56} Government of India, Planning Commission, Third Five Year Plan(1961-1966)
\textsuperscript{57} In Kerala in 1960, in Uttar Pradesh 1962, Punjab 1958, Himachal Pradesh 1969 etc.
\textsuperscript{58} In Karnataka 1965, in Bombay 1965 etc.
First National Commission on Labour was also set up under this Plan. This was the first step in independent India that envisaged a comprehensive study for finding out the labour problems, its causes and remedies.

The Fourth Plan\(^59\) analysed the ESI Scheme, industrial training to craftsmen, employees provident fund scheme and found that these expanded steadily. This plan recommended for adoption of the ideology of ILO that includes “development involving comprehensive programs of rural development, labour intensive public work programmes and fuller utilization of industrial capacity, promotion of labour intensive products in domestic and foreign markets and application of economically sound labour intensive techniques in industrial production.\(^60\) Such investment plan will need more investment in human as compared to physical capital.\(^61\) More stress was given to rural development and small scale industries and the strategy of development envisaged in Fourth Plan was broadly in conformity with this. The plan also envisaged the creation of new employment opportunities and improvement in wages of those who were already employed in different sectors.

The Sixth Five Year Plan recognized that the time had come when labour policy should be much more concerned with the interests of vast masses of workers who are outside the organized sector and are unable


\(^{60}\) In the report of UNEP, the ILO has forcefully agreed for the integration of employment creation to economic development through the maximum possible productive resources available labour to accelerate economic growth and more particularly, to substitute labour for scarce capital where there is economically feasible.

\(^{61}\) Id at chapter 22, p.429.
to protect their interests. The plan spoke about industrial policy i.e., ‘industrial development policy’ in a developing country like India has to meet two conflicting requirements. It must protect the right of the working class to organize and to struggle for its economic and social betterment by all democratic and legal means. At the same time, it must ensure the steady growth of investment and production at a satisfactory rate. Acceptance of priority of collective bargaining as the main mode of dispute settlement and protection of right to strike of workers were the proposals under this plan for concretizing the good industrial relationship. At the same time means to avoid strike i.e., notice, consultation and arbitration were also given importance. The plan also envisaged for extension of benefit of minimum wages to more beneficiaries, revising wage policy assuring similar wages for similar work, worker’s share in profit and income, expansion of working of National Safety Councils and National Council for Safety in Mines.

The Plan discussed social security of workers under Employees State Insurance Act, 1948; Employees Provident Fund and Miscellaneous Provisions Act, 1948; Payment of Gratuity Act, 1947 and Family Pension Scheme. The Plan envisaged for expansion of coverage of these Acts not only to factories employing 10 to 19 persons using power but also to shops, hotels, restaurants, cinemas, theatres, motor transport and newspaper establishments employing 20 workers

62. Ibid.
63. The plan says the right to workers is to be protected otherwise bilateral collective bargaining is deprived of its ultimate sanction from worker’s point of view.
or more. With regard to women labourers, the plan recommended for application of Equal Remuneration Act to all branches of employment to eliminate discrimination against women and to set up Advisory Committees in all states to implement the Act. The plan emphasized the proper enforcement of existing provisions requiring crèches or child care units within establishments in order to cover children of working mothers.

The plan realized that there was no shortcut to the elimination of child labour in an economy where poverty and unemployment forced families to divert their children from education to the supplement their family income. The only way is to raise the income of the families through employment and anti-poverty programmes. The plan also recommended for National Committee on child labour to examine the adequacy and implementation of the present legislation relating to child labour and to suggest welfare measures for the benefit of employed children and also for a Child Labour Cell in Ministry of Labour to formulate, co-ordinate and implement policies and programmes for the welfare of employed children and to indicate follow up action on the sections of the Child Labour Committee.

The Seventh Five Year Plan dealt with in detail employment, manpower planning and labour policy in chapter 5. In the Seventh Five Year Plan there is a shift in ideology of employment and manpower policy from basic approach to the concept of productive employment. The task is found with adopting a suitable structure of investment and production,

appropriate types of technology and mix of production technique and organizational support which would help the promotion of growth in productive employment. There must be suitable arrangements and adjustment of policies in terms of education, training and retraining and reorientation of workers in order to avoid dislocation effects and make the process of technology adoption smooth. The Plan analysed the employment generation achievements in Sixth Plan period and found that there was expansion.66

The Seventh Plan recognized that the labour entered the production process from the supply side as well as from the demand side and the thrust of Seventh Plan was an improvement in capacity utilization, efficiency and productivity.67 This plan has given emphasis to industrial safety and required constant attention due to its significant impact on the working conditions and welfare of workers and also on the production mechanism. This plan also discussed wage policy and found that wage factor depended on related elements like allowances, bonus, social security and fringe benefits. With regard to the unorganized sector, efforts are suggested to be made not only to train to upgrade skills of the workers but also to educate them and make them aware of the pragmatic and legislative provisions available to them. With regard to women workers, the plan gave special recognition and made provisions for requisite facilities for bringing them into the mainstream of economic growth.

66. Apart from sectoral investments, the oriented programmes like NREP, IRDP, RLEG, and TRYSEM resulted in expansion of employment opportunities.

The objective in the Eighth Plan was treating employment generation and economic growth as complementary rather than conflicting processes. The plan took the aspect of need of important scrutiny in the impact of macro-economic, sectoral and labour policies on employment.

The plan also discussed elaborately the existing labour policies, in the context of economic reforms. It was pointed out that capital and labour policies are not always employment friendly. The plan found that the labour policy as manifest in certain labour laws and labour market rigidities rendering wage mechanism ineffective, has introduced a degree of inflexibility in labour use thus “discouraging employment expansion particularly in the large scale industries”. The plan also discussed the unorganized sector where majority of workers belong and found employment in that sector, not only completely insecure but also devoid of any social security provisions i.e., “high degree protection for minimum scale proportion of the work force and complete lack of protection for the majority of workers”.

The shift from long protected non-competitive economy to increasingly competitive market occurred during Ninth Plan period. Appreciating the encouraging results of these reforms, the plan document observed that Indian economy has responded well to the change in policy direction.

69. Id at p.117.
The Tenth Plan\textsuperscript{72} as approved by National Development Council (NDC) envisaged an annual growth of 8% which is higher than 5.5% achieved during the Ninth Five Year Plan period. The plan targeted 10 million employment opportunities per year over Tenth Plan period. The plan especially emphasised on social security and framed a working group. The report\textsuperscript{73} elaborately discussed the present system of social security in India. The objective of this plan was to support attainment of economic and social objective in labour sector through a set of strategies. It is believed that a reasonable return to labour is facilitated by labour laws including provisions for social security to workers. According to the plan, job is the best guarantee for those who are not covered by social security laws\textsuperscript{74}. In the plan it has been stated that the labour market is found moving in a direction that change over of jobs by an individual will become more frequent. Public sector which provides comprehensive social security cover to its employees has been shrinking in size, the pension system of government employees be kept under review. The Plan envisaged that to reach out to the entire labour force employed, many of the existing institutions, laws and programmes including those on social security have to be restructured.

\subsection*{4.4 Conclusion}

The historical overview of labour jurisprudence in India reveals the fact that social security is not an alien concept in India. It was in

\textsuperscript{72} (2002-2007) period.


\textsuperscript{74} As stated in the Plan, out of about 400 million workers in the country only around 50 to 60 million are covered by some form of social security.
existence as a part of family or religious institution. The development of industrial jurisprudence influenced India also and thus the modern approach to social security moved slowly to India. The growth was stage by stage i.e as a preliminary period and then, a period of conscious planning. Before independence the enactments relating to social security were made for certain category of workers only. The framers of the Constitution of India had given significance to the provisions relating to social security of labour while framing the Constitution. Later in all policies in the governance of the country, social security to worker was a concern of the government.