CHAPTER 2

CONCEPT, ORIGIN AND DEVELOPMENT OF SOCIAL SECURITY

The concept of social security has evolved over a period of time. In the primitive societies it was mankind’s struggle against insecurity to protect himself from the vagaries of nature or finding the basic necessities of day today life. Later community living came into existence which brought the family to provide adequate social measures for the needy. With the rapid industrialisation, there was break up of family setup destructing the traditional system resulting in need for institutionalised and state-cum society regulated social security arrangement. Therefore, the concept of social security kept evolving and widening as there is no commonly accepted definition of the term.\(^1\) Hence, an attempt has been made in this chapter to discuss the concept, definitions along with the background of origin and development of social security

2.1 CONCEPT OF SOCIAL SECURITY

All the industrial countries of the world have developed measures to promote the economic security and welfare of individual and his family. These measures have come to be called as social security.\(^2\) Social security is dynamic concept and an indispensible chapter of a national programme to strike at the root of poverty, unemployment and diseases.

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\(^2\) Encyclopaedia Britanica, Vol.20, p.762.
Social security may provide for the welfare of persons who become incapable of working by reason of old age, sickness and invalidity and or unable to earn anything for their livelihood. It is necessary to analyze various definition of social security in order to appreciate the nature and concept of social security.

2.2 ANALYSIS OF VARIOUS DEFINITIONS OF SOCIAL SECURITY

Definition by Sir William Beveridge

In 1942, Sir William Beveridge headed a committee that reviewed the national schemes of social insurance in Great Britain during the post war period. In his report he defines social security as follows:

“The security of an income to take place of the earnings when they are interrupted by unemployment by sickness or accident to provide for retirement through age, to provide against the loss of support by the death of another person and meet exceptional expenditure, such as those connected with birth, death and marriage.

The Beveridge report argued that there were ‘five giants’ that were stalking the land and that should be tackled. They are want, disease, ignorance, squalor and idleness.

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Beveridge report is seen as the foundation stone of the current social security system as he has suggested that social security system would play a role in reducing inequality and preventing poverty if social security is intended to fulfill the need “to abolish want by ensuring that every citizen willing to serve according to his powers has at all times an income sufficient to meet his responsibilities.\textsuperscript{6}

\textbf{Definitions by ILO}

A systematic attempt was made by ILO in defining social security. ILO defines social security as follows:

“The security that society furnishes, through appropriate organisation, against certain risks, to which its members are exposed. These risks are essentially contingencies against which the individuals of small means cannot effectively provide by his, own ability or foresight alone or even in private combination with fellows”.\textsuperscript{7} These risks are being sickness, maternity, invalidity, old age and death. It is the characteristics of these contingencies that they imperil the ability of the working man to support himself and his dependents in health and decency.

\textbf{ILO Social Security (Minimum Standards) Convention No.102 of 1952 defines Social Security to mean:}

“The result achieved by a comprehensive and successful and series of measures for protecting the public (or a large sector of it) from the economic distress, that, in the absence of such measures, would be caused by the stoppage of earning in sickness, unemployment or old age and after death; for making available to that

\textsuperscript{6} Srivatsava, \textit{Supra} note 3, at 10.
\textsuperscript{7} ILO, \textit{Approach as to Social Security}, (Geneva 1942) p.81.
same public medical care as needed; and for subsidizing families bringing up young children”. ⁸

As per the contention of ILO social security is a multi-winged and multi-faceted concept. It also observed that social security is the basic need of all people regardless of employment in which they work and live. It should be begun with birth and should continue till death.⁹

**Definition by National Commission on Labour**

“Social security envisages that the members of the community shall be protected by collective action against social risks causing undue hardship and privation to individuals whose primary resources can seldom be adequate to meet them. The concept of social security is based on ideals of human dignity and social justice. The under lying idea behind social security measures is that a citizen who has contributed or is likely to contribute to his country’s welfare should be given protection against certain hazards or as consequence of it”. ¹⁰ Thus the National Commission on Labour observed that the citizen who has contributed to his country’s welfare should be given protection against certain contingencies of work life to which he is exposed as every worker is an active partner in a protective process and hence, he has legitimate right to claim social security benefits to safe guard against economic insecurity as a condition of human survival.

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Definition by Fried Lander

Fried Lander defines social security as “a programme of protection provided by the society against these contingencies of modern life- sickness, unemployment, old age, dependency, industrial accidents and invalidism against which the individual cannot be expected to protect himself and his family by his own ability or foresight. 11

According to him the concept of social security is used to describe as a programme of protection to assure the justified share to the working class by covering certain risks to which a person is exposed in which these risks are such that an individual with meagre earnings cannot afford.

Definition by Giri (V.V.)

V.V. Giri defines Social security as “Social security, as currently understood, is one of the dynamic concepts of the modern age which is influencing social as well as economic policy. It is the security that the state furnishes against the risks which an individual of small means cannot, today, stand up to by himself or even on private combination with his fellow countrymen. 12

Sinfield describes Social security situationally i.e., as a state of complete protection against the loss of resources. 13

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Berghman views social security as a situation of complete protection against human damage.\textsuperscript{14}

2.3 NEED FOR SOCIAL SECURITY

Modernisation and urbanisation have resulted in radical socio-economic changes and give rise to new conflicts and tensions consequent upon the erosion of age old family and fraternal security.\textsuperscript{15} The transition from agricultural economy to an industrial economy brought in special accompanied problems like industrial accidents in serious dimensions. Hence the joint family system, workers mutual aid societies, private savings etc. are found to be out dated and inadequate to the tempo of modern life to provide relief in the event of sickness, old age, maternity, unemployment, employment injury etc.

Human development insists that everyone should enjoy minimum level of security. Workers also want to be free from economic threats which disrupt in their daily lives. Hence, there must be a system in which the state bears the responsibility for providing and ensuring a basic level of social security which is an essential ingredient in the protection, development and full utilisation of human resources.

As social security is one of the fundamental needs of the modern human society to provide for alternative sources of income to the workers at the time of contingencies through a concerted effort of the most appropriate organisations, it was very much realised by the state regarding the importance of protecting the victims from the

\textsuperscript{14} Ibid.

contingencies in work life. It is to meet this type of need the institution of social security is developed.

2.4 CHARACTERISTICS OF SOCIAL SECURITY

The purpose of any social security measure is to provide individuals and families the confidence that their standard of living will not be eroded by meeting with such socio-economic contingencies in their life. The concept of social security varied from country to country. This is understandable in a way because of the differential social and economic development of societies in different parts of the world. But the need for economic protection is universal and hence social security measures have three major characteristics even though they vary from country to country and from time to time according to the need of the people and countries resources. They are as follows:

- Social security measures are established by law.

- They provide cash benefit to replace at least a part of income in meeting contingencies such as unemployment, maternity, employment injury, sickness, old age etc.

- These benefits are provided in three major ways such as social assistance, social insurance and public services.

The most well-known techniques adopted by social security at present are no doubt social assistance and social insurance which are discussed as follows:

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2.4.1 Social Assistance

Social assistance schemes will grant benefits to people needing them. Social assistance is a devise organised by the state by providing cash assistance and medical relief, to such members of the society as they cannot get them from their own resources. The ILO defines social assistance scheme as one that provides benefits to persons of small means granted as of right in amounts sufficient to meet a minimum standard of need and financed from taxation.

The special characteristic of this measure is that it is financed wholly from the general revenues of the state and the benefits are provided free of cost. But the beneficiary has to satisfy means test which means certain prescribed conditions. The first risk to be covered was that old age, but gradually non-contributory benefits were also introduced for invalids, survivors and unemployed persons as well. Today social assistance programmes cover programme like unemployment assistance, old age assistance, national assistance. Thus, the social assistance underlines the idea that the care of people could not be left to voluntary charity and should be placed on a compulsory and statutory basis. It represents, “the unilateral obligation of the community towards its dependent groups”.

17 Danny Pieters, Supra note 13, at 6.
18 Goswami, Supra note 16, at 11.
19 Meenakshi Gupta, Supra note 9, at 85.
2.4.2 Social Insurance

Social Insurance was first introduced in Germany by Bismark and since spread all over the world. Social insurance is a plan insurance which aimed for protecting the wages of those workers who do not have sufficient source to support their own self or their families in case of loss of income due to meeting contingencies in their work life. Lord William Beveridge has defined social insurance as “plan of insurance of giving in return for contributions benefits upon subsistence level, as a right and without means test so that individuals made build freely upon it.”

From the above analysis the following ingredients may be regarded as basic features of scheme of social insurance:

- Certain risks which cannot be faced by the persons in their individual capacity are faced collectively by a group of persons;
- For that purpose they have pooled together their resources;
- Benefits are provided to them in case of contingency;
- This makes them maintain their standard up to a subsistence level;

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• Benefits are payable to them according to rates prevalent as a matter of right in accordance with their salary or income; and

• The payment of contribution is obligatory since they are insured against the risk compulsorily.

2.4.3 **Similarities and Differences between Social Assistance and Social Insurance**

Social assistance and social insurance have some similar features because both are social in approach and are organised under a law passed in this behalf. Both provide a legal title to benefits. But both differ from each other in some respects. First, social assistance is financed by the general tax payers, while social insurance is financed by tripartite or bipartite contributions. Secondly, social assistance aims at to provide minimum subsistence to those who cannot make it on their own. Hence, the beneficiary has to satisfy a means test for being entitled to such benefits while social insurance schemes aim to protect a minimum standard of living related to beneficiaries’ immediate standard of living as reckoned by his daily earning. Thirdly, social insurance ignores the income and means of liable relations while social assistance makes the beneficiary a first charge on the liable relation. Benefits are paid only when the specified relations do not possess sufficient means to support the beneficiary. Thus social assistance is a progression from private charity towards private insurance whereas social insurance is a progression from private insurance towards public welfare measures.²³

²³ *Goswami, Supra* note 16, at 12.
Apart from social insurance and social assistance, social security measures are provided through public service programmes. This type of public service is available in number of countries in the form of national service providing medical care for every citizen of country.

2.5  AIM OF SOCIAL SECURITY

Social security represents society’s current answer to the problem of economic insecurity. Social security measures have a twofold significance for every developing country. They constitute an important step towards the goal of a welfare state, by improving living and working conditions and affording the people protection against the uncertainties of the future. These measures are also important for every industrialisation plan, for, not only do they enable workers to become more efficient, but they also reduce wastage arising from industrial disputes causing work stoppages. Hence, the aim of all social security measures is three fold in nature which are as follows:

2.5.1  Compensation

It aims to substitute income when there is interruption of earnings due to unemployment, sickness, permanent disability, old age etc.

2.5.2  Restoration

It is designed to provide certain services like medical care to the sick and invalid and rehabilitations in cases of need.
2.5.3 **Prevention**

Social security measures not only provide reliefs when occasions require expenditure that strains family budget, but also prevents the risks from arising in the first place itself. Prevention is designated to avoid the loss of productive capacity due to sickness, unemployment or invalidity and to render the available resources which are used up by voidable disease and idleness and this increase the material, intellectual and moral well being of the community.\(^{24}\)

### 2.6 **SOCIAL SECURITY AND HUMAN RIGHTS**

The International Labour Conference emphasised that social security is the basic human right and the fundamental means for creating social position, thereby helping to ensure social peace and social inclusion. It is an indispensible part of government social policy and an important tool to prevent and alleviate poverty.\(^{25}\) Hence the concept of social security as a human right originated with the Universal Declaration of Human Rights.\(^{26}\) The need for social security as human right has been enumerated as follows:

> “Everyone, as a member of society, has the right to social security and is entitled to realisation, through national efforts and international cooperation and in accordance with the organisation and resources of each state, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality”.\(^{27}\)

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\(^{27}\) Art.22 of The Universal Declaration of Human Rights, 1948.
“Everyone has the right to a standard of living adequate for the health and well being of himself and of his family, including food, clothing, housing and medical care 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. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection”. 28

2.7 CONSTITUTIONAL STATUS OF SOCIAL SECURITY IN INDIA

The constitution of India guarantees fundamental rights to every citizen including the right to life and as the Supreme Court has pointed out that the right to livelihood is inherent in the right to life. 29 The ultimate aim of social security is to ensure that everyone has the means of livelihood and hence the right to social security and protection of the family are integral part of right to life. 30 Further, the Supreme Court has also held that security against sickness and disablement 31 and also right to family pension held to be forming part of right to life under Article 21. 32

The Directive Principles of State policy set standard of achievement of socialistic pattern of society as it embraces principles and policies pertaining to social security measures which are to be followed by the state in future. It is pertinent to discuss the following provisions which are relevant to social security:

28 Ibid., at Art.25.
2.7.1 To Secure a Social Order for the Promotion of Welfare of the People\textsuperscript{33}

It is the duty of the state is to promote the welfare of its people by securing and protecting social order in which justice, social, economic and political, shall inform all the institutions of the national life.\textsuperscript{34} Art.38 incorporates part of the preamble within it concerning justice, social, economic and political. This class has often been relied upon to sustain and demand social welfare measures and to remain the state about the kind of society the constitution expects it to create.\textsuperscript{35}

Further, the constitution mandates the state to strive to minimise inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.\textsuperscript{36}

2.7.2 Directives to the State to Secure Social Security Measures While Enacting Legislations\textsuperscript{37}

While enacting social security legislations the state has been directed to secure the following measures:

- Adequate means of livelihood;

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\textsuperscript{33} Article 38 of the Constitution of India.

\textsuperscript{34} Ibid., at Article 38(1).


\textsuperscript{36} Supra note 33, at Article 38(2).

\textsuperscript{37} Ibid., at Article 39.
\end{flushleft}
- Proper distribution of ownership and control of the material resources of the community so that it may serve the common need;

- Prevention of the concentration of wealth and means of production;

- Equal pay for equal work for men and women;

- The health and strength of workers; and

- Childhood and youth are protected against exploitation.

### 2.7.3 Right to Work, to Education and to Public Assistance in Certain Cases

The state has been directed to ensure to the people within the limits of its economic capacity and development to secure the right work, employment, education and public assistance in cases of unemployment, old age, sickness and disablement and in other cases of underserved want. It is usual to refer to matters specified in the directive as measures of social security.

The Article 41 has no bearing on the interpretation of Article 16 as it is manifest that the term public assistance or relief to people who are unemployed or old, or sick or disabled, or in other similar cases of undeserved want.

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38 Ibid., at Article 41.
2.7.4  **Provision for Just and Humane Conditions**\(^{40}\)

It exhibits the concerns of the framers for the welfare of the workers by requiring the state to make provisions for securing just and humane condition of work and for maternity benefit.

While upholding the claim of non-regularised female workers for maternity relief, the Supreme Court has stated:\(^{41}\)

> “Since Article 42 specifically speaks of ‘just and humane conditions of work’ and maternity relief, the validity of an executive or an administrative action in denying maternity benefit has to be examined on the anvil of Article 42 which, though not enforceable at law, is nevertheless available for determining the legal efficacy of the action complaint of.”

2.7.5  **Living Wage, etc. for Workers**

Article 43 requires the state to strive to secure to the worker work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities.

In *Standard Vacuum Refining Co. of India v. Workmen*,\(^ {42}\) it has been observed that every workmen shall have a wage which will maintain him in the highest state of industrial efficiency, which will enable him to provide his family with the material things which are needed for their health and physical well-being, enough enable him to qualify to discharge his duties as a citizen. The amount of living which in terms of money will vary as between trade and trade. It is in

\(^{40}\) *Supra* note 33, at Article 42.


\(^{42}\) AIR 1961 SC 895, 901.
this broad and idealistic sense that Article 43 of the Constitution refers to living wage when it enunciates the directive principles that the state shall endeavour, *inter-alia* to secure by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage and conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities.

Article 43 sets out the ideals to which our social welfare state has to approximate in an attempt to ameliorate the living conditions of the workers. Considering the question of wages in the background of the directive principles, a wage structure should serve to promote a fair remuneration to labour ensuring due social dignity, personality and security, a fair return to capital, and strengthen incentives to efficiency, without being unmindful of the legitimate interest and expectation of the consumer in the matter of prices.  

It is an indispensable component of labour welfare and extent of its prevalence is a measure of the progress made by any country towards ideal the welfare state. The concept of social security has been further widened, so as to include provisions for housing, safe drinking water, sanitation, health, educational and cultural facilities and also a minimum wage which can guarantee workers a decent life. Social Security is a more positive concept, assuming that with the provision of these systems and mechanisms the unorganised sector will become part of the main stream of the economy and enhance the national income significantly. Hence, social security in

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44 Supra note 10.
45 Supra note 1, at 14.
46 Subrahmanya, Supra note 21 at 38.
the modern era is essentially conceived as a related concept to the high ideals of human dignity and social justice.

From the above discussion it is clear that social security measures have introduced an element of stability and protection in the midst of the stresses and strains of modern life. Lack of social security impedes production and prevents the formation of a stable and efficient labour force. Social security is, therefore, not a burden, but a wise investment which yields good dividends in the long run.  

2.8 ORIGIN AND DEVELOPMENT OF SOCIAL SECURITY

Historical Scanning of Social Security System would reveal that recognition of labour was not a subject of social justice during pre-industrial society as slaves, serfs etc. Where the system prevailed reflecting their state of deprivation with no legal rights. Later the advent of industrial revolution in the world gave rise to invention of many numbers of machines and chemical discoveries in the 18th Century.

Man kind’s experience of various evolutionary changes from primitive times to the present day, have been extensive and varied.

2.8.1 From Nomadic Period to the Modern Factory System

Initially, man passed through “the hunting and fishing stage”. Wild animals, birds and fruits fulfilled his hunger, his thirst was quenched by the waters of springs and rivers, caves gave him shelter and the barks of trees were used as clothing. Thus, his basic needs food, shelter and clothing were adequately met by nature. Due to the

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47 Giri, Supra note 12, at 271.
absence of any economic, political and social systems, labour problems did not exist.

2.8.2 Pastoral Stage

This stage was marked by a certain amount of economic activity. The nomadic and migratory nature of man persisted, and together with his goats and cattle, he move on to fresh pastures and meadows. Some conflicts would sometimes take place among herd-owners, for private property ownership was not known.\(^{49}\)

2.8.3 Agricultural Stage

This stage paved the way for recognition of individual property rights as they started to have fixed abodes for cultivation. This period saw the growth of villages, towns as well as cities. There was a small artisan class who were self employed and also the landed proprietors or zamindars as well slaves. Even after, feudal system arose where serfs served under the barons who, in return, gave them and their families’ protection, food and shelter. This type of division was later responsible for the emergence of the class struggle.

2.8.4 Handicrafts Stage

This stage has marked the beginning of the labour problems in the world. As the artisans were not able to sell their finished products in their own villages, they started depending upon traders or merchants who found a market for their products. They gave them loans to those artisans and developed themselves to the class of entrepreneurs. As a result the system of exchanges and commodities developed into commercial centres. They used improved navigational

\(^{49}\) *Ibid.*
aids and land communication system to develop their trade and became even more important than feudal Lords. Craft guilds ensured the quality and quantity of manufactured goods by a strict control over artisans. They also marketed the goods. Hence, in this period wealth accumulated and there was a prominent division of labour and other classes.

2.8.5 Workshop Stage

Since there is a need to manufacture products on larger scale the workshop stage soon overtook the handicrafts stage, standardised tools came to used and the small workshop manufactures dominated the general market. The employer-employee relationship, however, was still cordial, sympathetic and personal, though the elementary problems of labour relating to wages, hours of work, recruitment and employment also surfaced about this time.\(^{50}\)

2.8.6 Industrial Revolution

Virtually industrial civilization began with the introduction of factory system which was largely responsible for the rise of cities as production of goods was shifted from small workshops and cottage to large factories located in big town and cities. A large number of workers migrated into the cities in search of employment in the factories for survival.\(^{51}\)

Large scale of production and division of labour became the order of the day in Britain along with the growth of capitalism. England may be regarded as the original home of modern industrial capitalism and spread to other countries of Europe and to the United

\(^{50}\) Ibid., at 6.
\(^{51}\) Velusamy, Supra note 15, at 33.
States of America. The workers became an "exchanges" whose labour was treated as the prime cost of production in such a manner as new materials were and are treated.

Industrial capitalists accelerated method of production and flooded world markets with cheap goods which had led to the growth of Trade and Commerce. The doctrine of Adam Smith, J.S. Mill, Spencer had resulted in concentration of wealth in few hands as there was no legal restriction on trade, production, exchange of wealth and accumulation of property. This had led the manufacturing class whose commercial doctrine was laissez-faire to labour exploitation and victimisation. The process of industrialisation has not only resulted in overcrowding with problems relating to safety, hygiene and health and also employment accidents in serious dimensions.

The fear of insecurity to the workers in the event of sickness, old age, maternity, unemployment, employment injury etc. threatened the industrial workers regarding the interruption of the daily wages. This was due to the laissez-faire policy of the state to play the part of passive on looker by not taking responsibility for ensuring the better standard of living to its citizen needed from womb to tomb.

Hence, workers had to make their own arrangements to overcome the economic insecurity. This had drifted the workers from bad to worse condition as there was no provision of any relief while meeting contingencies in their work life.

The concept of social security had developed in the course of historical process because when life is becoming more and more

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complicated due to industrial and scientific advancement, the risks of life have increased manifold. The departure of laissez-faire philosophy to the concept of welfare state yielded the new principles of social welfare and common good through the instrumentality of social justice and so that, the state was no longer content to play the part of passive on looker. Since the late 19th Century gave birth and recognition of industrial jurisprudence with social justice, it was almost felt by every country to establish a system of social security to protect the workers from the risk or contingencies of work life as a matter of right to employees and also every state had to take active participation for the development of human society to pursue the wide range of social and economic policies for ensuring the dignity to man to reach the goal of freedom from want. As per the contention of Grigson and Gibbs Smith: laissez-faire - The doctrine that the state should not interfere with the natural working of a nation’s economy that economic forces alone working through private individuals should shape economic welfare, died at the end of 19th Century and was buried in the 20th Century. Thus the modern society being a welfare society has assumed the responsibility of providing social security measures to protect industrial workers against sickness, old age, invalidity, unemployment etc.

Though the broad system of social insurance was created by the Government of Germany, the term social security was officially recognise and authoritatively used in United States of America in 1935. The influence of ILO also laid foundation to social security measures for workers for adopting the principles to secure universal peace based on social justice. The Philadelphia declaration reaffirmed in particular that labour is not a commodity and poverty anywhere

constitutes a danger to prosperity everywhere with a view to the promotion of common welfare.\textsuperscript{55}

\section*{2.9 HISTORICAL DEVELOPMENT OF SOCIAL SECURITY IN INDIA}

The developments of social security are closely linked to changes in the economy and society. History is not only for those persons interested in how things were in the past, but also important in facilitating us to understand the present. Hence, an attempt has been made to trace the origin and development of social security system in India with a view to identify lagging in social security system.

In India, social security schemes have been in existence since times immemorial. In the beginning, economic security for needy persons was provided primarily through individual efforts. Gradually, to meet contingencies, organised methods developed to deal with the problems of insecurity. In the early days when human needs were limited and livelihood was based primarily on agriculture, joint families, craft guilds, churches, charitable philanthropic and other religious institutions provided these securities.\textsuperscript{56}

In order to appreciate the growth and development of social security through different stages, it has been conveniently divided into following phases:

- Pre independence phase, and
- Post independence phase.

\textsuperscript{55} Article 1 of Philadelphia Declaration, 1944.
\textsuperscript{56} \textit{Srivastava, Supra} note 3, at 1.
2.9.1 Pre-Independence Phase

In the pre-independence era, social security measures were extremely limited in its scope and new trends started developing in India during British period when hundreds of factories developed in Bombay, Madras, Ahmedabad, Calcutta, Nagpur and Khanpur. Hence, it is desirable to discuss the social security measures adopted in the following periods:

- Hindu period;
- Muslim period; and
- British period.

2.9.1.1 Hindu Period

In ancient India, joint Hindu family was the unit of social organisation and was also the original cell for security, prototype and analogous to the further institutions. The reciprocal obligations of the parents to support the child in infancy and of the son to support the parents in old age were represented in social insurance by the solidarity of generations.57

The society in ancient India did not witness the class struggle as between the employer-employee, exploiter-exploitee and oppressor-oppressed. Since, system of regulation existed regarding wages, mode of their payment and fixation, availability of leave to workers. All these details are found in Arthasasthra, Yajnovalkya, Brahaspathi, Naradas smritis etc. Kautilya’s Arthashastra is the building example of the introduction of the philosophy of social security in ancient India. Kautilya attached a great importance to female labour. Female

57 Goswami, Supra note 16, at14.
labour in ancient India was recommended in occupation like husking, grinding, winnowing etc. Kautilya has also mentioned a number of pension schemes in his work, such as, educational pension, public poor relief. He says that “State itself should provide support to poor, pregnant women, to their new born off spring, to orphans, to the aged, the infirm, the afflicted and the helpless”.59

In the eighth century Sukracharya makes special provisions for social security particularly regarding sickness benefits, pensions and the old age benefits, family pensions and maintenance allowance. He made it clear that when a servant was ill and could not work temporarily, the master should make no deduction from his family.60

2.9.1.2 Muslim Period

During Mughal period due to frequent warfare there was a rapid decline of Indian Industry. The impact of Muslim culture and thought on India gave a new depth to the concept of charity and social service. Islam enjoins five major duties on its followers, one of which is ‘Zakat’, meaning charity. The Mughuls had a special governmental department to supervise the administration of charities and endowments. Among Mughal rulers, Akbar the Great made certain provisions for learned. Shajahan made liberal grants to spiritual guides, literary men and musicians. The motive of charity was religious rather than safe guarding the economic interest of the poor.62

59 Goswami, Supra note 16, at 15.
60 Ibid.
62 Goswami, Supra note 16, at 15.
2.9.1.3 British Period

The Indian industry has declined considerably after the Britishers came as local industry was hardly encouraged. The first cotton textile factory was set up at Bombay as early as 1854. Along with large scale cotton and jute textile industries, seasonal industries like cotton ginning, cotton and jute pressing and rice milling also cropped up.

New trends started developing in India during British period as a result of the technological developments and industrialisation which had led to the establishment of two distinct classes in the society that is employers and employees. Joint family system lost its validity to provide security against certain socio-economic contingencies as labour was drawn to factory in order to improve their living conditions. There was hardly any law of the land in India to govern labour matters.

Exposure to serious accidents due to unprotective methods of handling machines and sickness due to unhealthy living and working conditions made the workers entirely incapable of work which in turn considerably reduced their earning capacity. The capitalists wanted more production but for less wages. Since the traditional right of an employer to hire and fire his workmen at his will under the laissez-faire policy ruled supreme for some time, the living standard of workers became low due to interruption of wage-earnings and expenditure on the cure of diseases. So this double income loss had resulted in economic insecurity. Since there was no productive system either in the form of compensation or in the form of medical

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care and treatment, they found to be difficult to cope up with the cost of living in urban life. A sense of union conscience became widespread in the western countries that were followed by other parts of the world including India. The workmen on many occasions combined for increasing wages and reducing hours of works. But, they were resisted by the employers by holding unions as illegal.

2.9.1.4 Impact of Two World Wars

The impact of two world wars deteriorated both economic and social conditions of working class. As trade unions were legalized in some countries, they started functioning as welfare bodies in addition to protest organization. Meanwhile the establishment of ILO gave a morale boost to the Indian workers to have organized movements for redressing their grievances particularly the need for protecting workmen against hazards of life such as the injury, sickness, maternity, old age was very much felt and that the institution of social security has to established.

As there was no proper legislation for the protection of workers against social and economic contingencies except few legislations like the Fatal Accidents Act, 1855; The Factories Act, 1948 etc. The influence of ILO during the post war period favoured the growth of trade union movement resulting the enactment in the field of social security namely Workmen’s Compensation Act, 1923.

2.9.1.5 Royal Commission on Labour

The Royal Commission on Labour was appointed in 1929 to enquire into the working conditions of industrial labour. The Commission, inter alia, recommended a scheme of health insurance of
industrial workers on a contributory basis financed by the employers and by small deductions from the wages of workers.\textsuperscript{65}

The Royal Commission also emphasised the necessity for making some provisions against old age as the workers are unable save out of their low earning against old age.\textsuperscript{66} Further, the commission also recommended for maternity benefits as well as payment of gratuity.\textsuperscript{67}

\textbf{2.9.1.6 Scheme by Professor B.P. Adarkar Committee}

The question of formulating a health insurance scheme received the attention of the Government of India in 1927. The Royal Commission on Labour also stressed the need for health insurance for industrial workers. The problem of health insurance was discussed in the Labour Ministers Conference in 1940, 1941 and 1942 which has resulted in the appointment of a committee presided over by Professor B.P. Adarkar in 1943. Professor B.P. Adarkar was entrusted with the task of preparing details of the compulsory insurance for industrial workers. He submitted his report in 1944 with the recommendations based on compulsory contributory principles wherein contributions by the workers depending upon their earnings in slabs. The Adarkar’s report was modified by ILO experts and finally it was passed as the Employees’ State Insurance Act in 1948.

\textbf{2.9.2 Post Independence Phase}

The real sense of social security legislations took shape only after independence even though its birth may be traced back to the industrial revolution. India witnessed the introduction of industrial

\textsuperscript{65} Srivastava, Supra note 3, at 15.
\textsuperscript{67} Ibid., at 159.
adjudication in India during 1947. The interim Government formulated a five year programmes for the welfare of labour class with a view to raise the living standards of workers. The significant features of the programmes are follows:

- Organisation of health insurance scheme, applicable to factory workers to start with;
- Revision of Workmen’s’ compensation Act;
- A central law for maternity benefit;
- Extension to other classes of workers of the right, within specific limits, to leave with allowance during the sickness.68

2.10 DEVELOPMENT OF SOCIAL SECURITY DURING FIVE YEAR PLANS

The labour policy set out in the five year plans since independence was based on the belief that the basic needs of workers for food, clothing must be satisfied. Hence, India began the process of planned economic development in the start of First Five Year Plan in April 1951.69 Since the Constitution has made a special mention of the duties that the state owes to labour, to their economic upliftment and social regeneration70 planning was introduced to provide certain directions aimed at physical, social and moral improvements of labour that has directly bearing on social security legislations and hence, the

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68 Supra note 10, at 163.
70 Supra note 10, at p.14.
Directive Principles of State Policy is described as social security charter.\(^{71}\)

### 2.10.1 First Five Year Plan (1951-1956)

The first five year plan has two main objectives namely a better standard of life for the people and social justice. The objectives of the plan reflect the idealism of the community and are derived from Directive Principles of State Policy embodied in the Constitution.\(^{72}\)

This plan has emphasised that adequate provisions has to be made for the basic needs of the workers in respect of food, clothing and shelter so as to enable them to remain in a state of health and efficiency. Besides this, it is also further emphasised that workers should have their due share in social and economic progress in the shape of improved health services, wider provision of social security, better educational opportunities and increased recreational and cultural facilities.\(^{73}\)

The plan also stressed that the conditions of work should be such as to safeguard the workers health and protect them against occupational hazards. Further, it was observed that the workplace has to provide reasonable amenities for his essential needs and the worker should be assured of a reasonable measure of security against the various natural and other risks to which he is exposed.\(^{74}\)

With regard to economic inequalities between rich and poor, the plan observed that at present there are large inequalities between the rich and poor, between the urban and rural areas. This inequality

\(^{71}\) Supra note 33, at Articles 38,39,41,42 and 43.

\(^{72}\) Government of India, First Five Year Plan, (1951-1956), Chapter 34 Para 4.

\(^{73}\) Ibid. at Para 2.

\(^{74}\) Ibid. at Para 3.
is both unjust and uneconomic. Further, it stated that our country can survive only if there is a more equitable distribution of wealth. The plan also suggested the ways for bringing out equality by way of taking away excessive wealth through fiscal and legislative measures. It also suggested other method that is to raise the standard of life of the common man through improvement in the economic and social status of the more vulnerable classes and through increase in the wealth and productive capacity of the community as a whole. Protection of tenants, labour welfare, amelioration of the backward classes and the substitution of usury by organised credit are steps to this end. The plan has emphasised on agricultural development towards rectifying prevailing inequalities. Further, the plan also suggested to consider matters such as prevailing situation of Indian economy which is not fully integrated. Secondly, essential facts and data relating to important aspects of our economy are lacking. It focussed its attention that the federal structure of the Constitution in which the states are largely autonomous should involve a great deal of mutual consultation and also special attention to the problem of effective coordination of policy and programmes.75

The plan also observed that worker today is not satisfied with merely the wage he receives but expects to be protected against types of natural and other risks arising out of employment.76

2.10.2 Second Five Year Plan (1956 - 1961)

The Second Five Year Plan has explained the significance of the socialistic pattern of society as India adopted socialistic pattern of society as an objective of state policy.

75 Supra note 72, at p.570.
76 Supra note 10, at para 45.
Considering the significance of socialistic pattern of society, the second five year plan stated that the basic criterion for determining the lines of advance must not be private profit but social gain, and that the pattern of development and the structure of socio-economic relations should be so planned that the result not only in appreciable increases in national income and employment, but also in greater equality in income and wealth. The plan also observed that the major decisions regarding production, distribution, consumption and investment and in fair all significant socio-economic relationships must be made by agencies informed by social purpose. The plan marked that the benefits of economic development must accrue more and more to the relatively less privilege classes of society and there should be a progressive reduction of the concentration of incomes, wealth and economic power.\(^\text{77}\)

The plan also stated that the problem is to create milieu in which the small man who has so far had little opportunity of pursuing of participating in the immense possibilities of growth through organised effort is enable to put in his best in the interest of the higher standard of life for himself and increased prosperity for the country. It also suggested that for creating the appropriate conditions, the state has to take on heavy responsibilities, as the principle agency speaking for and acting on behalf of the community as a whole.\(^\text{78}\)

The plan also aims to have a wage policy in order to raise the real wages of the workers and also felt that workers’ right to a fair wage has been recognised but in practice it has been found difficult to quantify.\(^\text{79}\) The plan suggested that employees’ provident funds should be extended to cover more industries and commercial

\(^\text{78}\) Ibid.
establishments. During this plan possibility of combining different social security provisions in force in to an overall social security scheme is being explored. It has also suggested that decentralisation of the administration of such a unified scheme would prove advantageous to its beneficiaries.\footnote{Ibid., at para 27.}

Special attention has been focused on women workers also with regard to the effective implementation of legislations relating to protection against injurious work, maternity benefits and creche facilities at work places. While discussing about the schemes framed under Employees State Insurance Act, 1948 the plan has stressed that steps should be taken for proper implementation of the schemes. The plan also focussed considerable attention about the requirement to improve the conditions of labour through legislations such as Factories Act, 1948, Mines Act, 1952 and Plantation Labour Act, 1951.\footnote{Ibid., at para 37}

The Second Five Year Plan also emphasised that agricultural workers need special and immediate attention to improve the living standards of the people due to lack of organisation and prevailing economic conditions of the agricultural labour.\footnote{Ibid., at para 34.}

\subsection*{2.10.3 Third Five Year Plan (1961-1966)}

The Third Five Year Plan gave importance to social assistance programmes.\footnote{A Report of National Commission on Labour, (1969), p.164.} The plan stated as follows:

“It would be desirable to make a modest beginning in respect of three groups of persons, the physically handicapped, old persons
unable to work and women and children, where they are altogether lacking in the means of livelihood unsupport. Assistance for them will have to come from voluntary and charitable organisations, municipal bodies, panchayat samitis and panchayats and voluntary organisations. With a view to enabling these organisations to develop their activities with the help of local communities and giving them a little support, it might be useful to constitute a small relief and assistance fund”.84

For creation of welfare funds the third five year plan suggested that special welfare funds have been constituted for financing welfare measures for workers in the coal and mica mining industries. They are meeting very real needs and hence similar funds are proposed to be created for workers in the manganese and iron ore mines.85

The plan also felt that the state and local bodies both urban and rural need to participate in schemes undertaken by way of social assistance and social security and also recommended for the integration of the existing social security schemes.

2.10.4 Fourth Five Year Plan (1969-1974)

The plan provided for the expansion of employees state insurance activities to provide hospitalisation to families of all insured workers to cover shops and commercial establishments in selected centres and also to non power factories employee ten or more persons.86

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84 Supra note 77, at 258.
85 Ibid., at 259.
The plan gave importance to social assistance programmes and also observed that the programmes for welfare centres, holiday homes and recreational centres have been included in state plans. The plan also stressed for strengthening labour administration for better enforcement of labour laws.  

2.10.5 Fifth Five Year Plan (1974-1979)

The Fifth Five Year Plan identified that stray progress is being achieved in social security measures. It emphasised the suggestion of the Committee on Perspective Planning appointed by the Employees’ State Insurance Corporation that the Employees State Insurance Scheme should carry out a five year phased programme of extension of additional categories of establishments, including smaller factories, shops and commercial establishments, mines and establishments. The plan further stated that the scope for integrating certain important social security measures should be studied.

2.10.6 Sixth Five Year Plan (1980-1985)

The Sixth Five Year Plan observed the progress made in social security scheme in India. It recommended that the Provident Fund Scheme should be gradually extended to smaller establishments and to rural areas. The plan also emphasized that effort should be made to remove the difficulties of limitation of financial and physical resources of the state government and to extend the coverage to new

87 Ibid., at 22.11.
89 Ibid.
90 Ibid.
areas. The planners also suggested that as welfare and social security service overlap in areas of medical care and income security during sickness and disability, it will be conducive to efficiency and economy if services in such common areas can be integrated.

The thrust of the programmes in the sixth plan was in extending measures contemplated in the coverage of Employees State Insurance Scheme and Employees Provident and Family Pension Scheme. The plan also recommended that special programmes need to be undertaken by the State Governments for the benefit of agricultural labour, artisans, handloom weavers, fisherman, leather workers and of the unorganised workers in the rural and urban areas.

The planners also focused their attention to bonded labour and stressed that effort should be undertaken for its abolition. Further, focus was made towards the abolition of child labour and also regarding the protection extended in prohibition of employment of women in underground mines/coal units and in certain other hazardous occupations. It was also observed that special steps have to be taken to promote their welfare facilities like creches maternity benefits and ensuring equal pay for equal work.

2.10.7 Seventh Five Year Plan (1985-1990)

The highlight of this plan is regarding the labour policy for unorganised labour. The plan observed that labour policy should necessarily have provisions for the welfare and working and living conditions of unorganised labour not only in rural sector, but also in
the urban areas. It examined that although a great majority of unorganised labour is found in the rural areas, an increasing number of workers are shifting in the metropolitan cities and small and medium towns in search of better employment opportunities. It further examined that in the unorganised urban sector, incomes are not protected, legal regulations of employment and wages are almost nonexistent and it is extremely difficult to enforce the rules where they exist. While discussing the problem of unorganised sector, it has specifically stated that apart from the general problem of unemployment, rural labour such as land less labourers and small and marginal farmers, fishermen, beedi workers, leather workers, handloom workers, etc., face problems of under employment, low wages, lack education and organisation.97

The plan also pointed out that a number of schemes are already being implemented to improve the living and working conditions of rural workers in the country, but it is a challenging task to provide programmes for employment creation and income generation to the rural unorganised labour. This plan also paid a special attention to the bonded labour and child labour for their eradication.98

2.10.8 Eighth Five Year Plan (1992-1997)

This plan has observed that adequate levels of earnings and safe and humane conditions of work and access to some minimum social security benefits are the major quantitative dimensions of employment which enhanced quality of life of workers and their productivity. The plan has marked that there is an inadequate coverage and implementation of Minimum Wages Act. The plan

98 Ibid., at 5.35
further stated that a National Child Labour Programme has been taken up to make effective intervention to prevent exploitation of child labour in the unorganised sector. The plan also suggested that suitable organisational arrangements would need to be developed to provide a minimum measure of social security for unorganised workers.\textsuperscript{99} It also suggested that rural workers educational programmes should be organised for agricultural workers, forest labour and rural artisans to solve their problems by making aware of industrial health, safety and environment as well as to develop leadership among workers.

\section*{2.10.9 Nineth Five Year Plan (1997-2002)}

The planning process attempts to create conditions for improvement in labour productivity and for provision of social security to supplement the operations of the labour market. The plan has pointed out that the situation of surplus labour, coupled with the employment of most of the workers in the unorganised segments of the economy has given rise to unhealthy social practices like bonded labour, child labour and adverse working conditions faced by the migrant labour. The strategy during the plan was that the resources have been directed to the plan programmes towards skill formation and development, exchange of information on job opportunities, monitoring of working conditions, creation of industrial harmony through a infrastructure for healthy industrial relations and insurance against disease and unemployment for the workers and their families.\textsuperscript{100}

The approach of the plan was to provide social security to the population where high instance of poverty is prevalent. The plan

\textsuperscript{99} Jetli, Supra note 69, at 330.
\textsuperscript{100} Ibid., at 366.
identified that a large number of unorganised labour do not get acceptable minimum level of living and focussed its attempt in providing social security for a targeted group through a special employment generation programme on the one hand and the provision of free or heavily subsidised basic needs like health, nutrition, housing and the education on the other.\textsuperscript{101}

A number of schemes are already being implemented to improve the living and working conditions of rural workers in the country. The transformation of their socio-economic conditions is admittedly a challenging task and due to the basic malady afflicting the rural unorganised workers has been the lack employment opportunities. Hence, the plan intended that emphasis will continue to be placed on the special target group programmes for employment creation and income generation. Therefore, plan aimed to undertake efforts not only to improve and upgrade the skills of the workers but also to reduce them and make them aware of the programmes and legislative provisions available for them.\textsuperscript{102}

\textbf{2.10.10 Tenth Five Year Plan (2002-2007)}

The plan observed that the productivity of labour is an essential condition for the prosperity of enterprises and the well being of the workers and their families. It stated that while the production facilities at work place and the remuneration are important, attitudes towards work, and their value placed by the society on dignity of labour are equally important in influencing the productive of labour.\textsuperscript{103}

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\textsuperscript{101} Ibid., at 370-371.
\textsuperscript{103} Government of India, Tenth Five Year Plan, (2002-2007) para 3.5.1.
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The planning process supports the attainment of economic and social objectives in the labour sector through a set of strategies. The supply of labour is kept in tune with demand through skill development and vocational training. The Plan further observed that appropriate conditions at work are ensured by measures taken to promote safety at the workplace and minimizing occupational hazards and a reasonable return on labour is facilitated by labour laws that regulate payment wages and provision of social security to workers.\textsuperscript{104}

The plan also marked that the situation where the supply of labour exceeds demand by a huge margin can lead to highly exploitative forms of work and therefore an effective implementation of the existing regulations relating to prohibition of bonded labour and child labour and monitoring the conditions of migrant workers is required.\textsuperscript{105}

The main objective of Tenth plan would be to increase the coverage of the labour market institutions and also to provide provision of gainful employment to the entire labour force. It is observed by the planners that the growth of population in the working age group is at a substantially higher pace than that of the average population. Agriculture used to provide employment to a major part of the work force. It was also pointed out that the number of workers deployed in agriculture cropping activities has not increased and it has even declined in certain parts of the country. Further, the plan noted that the pace of growth of jobs in the organised sector has slowed down primarily because number of jobs in the public sector has reduced and employment elasticity in the private sector has decreased significantly.

\textsuperscript{104} Ibid., at para 3.5.2. \\
\textsuperscript{105} Ibid., at para 3.5.3.
The plan recommended for the economic policy in general and labour policy in particular must facilitate the opening up of new employment avenues. Particularly in agriculture and related sector, there is a need to create more employment opportunities in horticulture, animal husbandry, poultry and development of water sheds. The plan contemplated that the non agricultural sectors of economy will have to observe the bulk of the increase in labour force and the labour sector has to focus at those times of establishment where much of the labour finds work.106

2.10.11 Eleventh Five Year Plan (2007-2012)

The plan pointed out that the unorganised section of agricultural sector consisting of crop cultivation and other agricultural activities such as forestry, livestock, and fishing, not protected under the Plantations Workers Act, has neither formal system of social security nor regulation of conditions of work. The plan also stated that the Government has taken note of the concerns expressed by the National Commission for Enterprises in Unorganised Sector in examining the desirability of enacting laws regulating the minimum conditions of work of agricultural wage workers and provide a measure of social security to agricultural wage workers and marginal and small farmers in the unorganised sector as well as informal/unorganised workers in the organised sector consisting of wage workers, independent self-employed, and workers who are self-employed at home, whose minimum conditions of work are not regulated by any other legislation. The plan also felt that the provision of a statutory package of National Minimum Social Security to which all unorganised (agricultural and non-agricultural) workers are entitled need to be considered. It also suggested that there may be

106 Ibid., at para 3.5.5.
Social Security Advisory Boards and dispute resolution mechanisms to oversee and monitor the implementation and ensure that each such worker has the sense of being provided with what is due to him/her.

The plan has observed that in order to provide accessible, affordable, accountable quality health services to households in rural areas the government has launched National Rural Health Mission. The plan pointed out that many efforts in the past for providing health insurance for the rural poor have not been successful because of inadequacies in design and implementation. There is a need for an inclusive social security system for more than 91% of India’s workforce which consists of informal workers working either in the unorganised sector (85%) or in the organised formal sector (6%).

The plan noted that a large majority of them face the problem of deficiency or capability deprivation as well as the problem of adversity. Further the social security schemes that are currently in place hardly cover even 5 to 6% of estimated number of total informal workers of 362 million. It also examined that with the exception of a small number of states with some social security cover for workers in the unorganised sector, a majority of the states do not offer any cover, especially for addressing such core concerns as healthcare and maternity. The plan also pointed out that among the central and state governments initiates that address the social security needs of the population, there are very few schemes addressed specifically for the unorganised workers. Kerala and Tamil Nadu are the only states that offer some reasonable coverage of both old age pension for the aged poor and other protective social security schemes for the workers in the unorganised sector.

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108 Ibid.
While discussing the issues on social security in the context of inclusive growth the plan observed that majority of the workers in the unorganised sectors come from the socially backward communities. Lack of purchasing power as a result of low earning power, along with vulnerabilities will have the effect of reducing the aggregate demand in the economy. The plan also observed that the absence of a viable and comprehensive social security arrangement is not merely the problem of individual workers and their families. It has also wider ramification for their economy and society. The plan pinpointed out the overall wellbeing of the country as measured by health, education, longevity of life and access to resources may be affected adversely, at times manifesting itself in crimes and other illegal activities.\textsuperscript{109}

Regarding workers without institutionalised social security cover, the plan stated that the beedi workers, brick-kiln workers, handicraft artisans, handloom weavers, leather and tannery workers are covered under social insurance schemes available to the unorganised sector which is operated through Life Insurance Corporation such as social security group insurance scheme. It is necessary to ensure living wage, distinct from the concept of minimum wage, which can guarantee the workers a decent life. Hence, the objective of the Eleventh Plan is to treat social security as inclusive concept that covers housing, safe drinking water, sanitation, health, educational and cultural facilities for the society at large. During this Period, as sequel to the recommendations of National Commission for Enterprises in the Unorganised Sector, the Unorganised Workers’ Social Security Act was passed in the year 2008 to provide for the social security and welfare of unorganised workers. The Act provides for welfare schemes formulated by Government on matters relating to

\textsuperscript{109} Ibid., at 152.
life and disability cover, health and maternity benefits and old age protections under schedule I of the Act.

2.10.12 Twelfth Five Year Plan (2012-2017)

The plan focused its attention towards the women in the unorganised sector and stated as follows:

“Women in the unorganised sector require social security addressing issues of leave, wages, work conditions, pension, housing, child care, health benefits, maternity benefits, safety and occupational health, and a complaints committee for sexual harassment. This can only be ensured in extending labour protection to these sectors in a manner that pays special attention to the needs of women workers”.

With regard to home based workers, the plan stated that the promotion of enterprises of home based workers, self employed workers and small producers is an essential component of twelfth plan and is of particular relevance for women. The Twelfth Plan strategy would be to identify such workers and support their enterprises through setting up of common facility centres to ensure all important services including technology and skill training, entrepreneurship training, market information access to institutionalised credit, power and other infrastructure and related facilities are readily provided.

The plan proposed that medical insurance policies will be modified to recognise needs of women headed and single women households and encouraged to have uniform coverage norms. Policies on pensions and post-retirement benefits will be engendered to reflect

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111 Ibid., at 167.
the needs of single women and women headed households. The plan suggested that Kisan Credit Cards should be issued to women farmers, with joint pattas as collateral and there will be provision of refinance loan for women entrepreneurs to extend their involvement in economic activities. Government loan guarantees to substitute for collateral to facilitate women’s access to credit will also be provided.112

The plan also pointed out that one of the major impediments affecting women’s participation in the workforce, is due to lack of skills. The Twelfth Plan envisages a major scaling up of skill development which must be accompanied by special efforts to promote skill development of women from traditional skills to emerging skills, that help women break the gender stereotypes and move into employment requiring higher skill sets.113

While discussing about employment generation, the plan suggested that a significant increase is required in formal sector employment, with reasonable pay and conditions, which would provide for the specific needs of women workers. The Twelfth Plan strategy is mainly focussing on health, education, sanitation and infrastructure development that will create many productive jobs and a large proportion of which will be in the formal sector. This must be accompanied by measures to ensure that women have adequate access to these new job opportunities. The plan also aims to strengthen the implementation of the Equal Remuneration Act and the Maternity Benefits Act.114

With regard to migrant workers, the aim of the twelfth plan is to ensure provision of financial services to migrant women to enable

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112 Ibid., at 167.
113 Ibid.
114 Ibid., at 167.
promotion of savings and to facilitate secure transfer of remittances. To protect migrant domestic workers from exploitation by placement agencies, the plan suggested that a system of registration, monitoring and accountability of placement agencies for domestic workers may be introduced. To prevent marginalisation of migrant labour, especially women migrants at their new destination, it has further suggested that portability of entitlements such as ration cards based on the experience of the Rastriya Swasthya Bima Yojana card will have to be ensured. Migrant Resource Centres /Assistance centres will have to be set up in major destination areas to provide information counselling for migrants including training and placement to ensure better integration in urban labour markets.\footnote{Ibid., at 175.}

Further, Constitution of India provides an overreaching framework for regulation of conditions of work as well as protection and promotion of livelihoods. The Constitution of India guarantees fundamental rights to every citizen including the right to life. The ultimate aim of social security is to ensure the means of livelihood and therefore, the right to social security is also inherent in the right to life. Thus, there was a complete change in the approach to labour legislations after independence as the ideas of social justice and welfare state are enshrined in the constitution which laid down directives to the state under part IV relating to labour and its welfare.

Accordingly, the following legislative measures have been adopted by the Government of India by way of social security schemes for industrial workers:

- Employees’ Compensation Act, 1923;
- Employees’ State Insurance Act, 1948;
Employees Provident Fund and Miscellaneous Provisions Act, 1952;

Maternity Benefit Act, 1961;

Payment of Gratuity Act, 1972.

Recently, the Unorganised Workers' Social Security Act was passed in 2008.

Apart from these legislations there are legislations to regulate the conditions of work. Which are as follows:

Payment of Wages Act, 1936;

Factories Act, 1948;

Minimum Wages Act, 1948;

Plantation Labour Act, 1951;

Contract Labour (Regulation and Abolition) Act, 1970;

Bonded Labour (Abolition) Act, 1976;

Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979;

Child Labour (Prohibition and Regulation) Act, 1986;

Building and other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996;

Beedi and Cigar (Conditions of Employment) Act, 1996.

From the above observation it is concluded that there is considerable development in the social security measures during the
post independence period. Even from the perusal of five year plans, it is inferred that the state has moved to translate the objectives stated in Directive Principles of State Policy in to statutes which are to safeguard the interests of workers against sickness, accident, disease, old age and unemployment. Particularly the programmes of sixth plan was on the effective implementation of different legislative enactments regarding labour and special programmes for agricultural labourers, artisans, handloom weavers, leather workers etc., and its special attention towards the problems of bonded labour, child labour, women labour, contract labour, construction labour and inter-state migrant labour. The eight five year plan also pointed out that the enforcement of labour laws especially laws relating to the unorganised labour should be effective.