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SOCIAL SECURITY AND LABOUR LEGISLATIONS

1.1 Introduction

Present day world is witnessing sweeping changes in almost all facets of life, particularly in the social and economic life of the community. Labour class constitutes a major portion of the society and their contributions are directed towards the development of the society. Considering the fact that labour is a significant component in all economic activities, the changes that take place in the economic field will also have an impact on labour.

India had in the past a well protected economy with high rate of regulations and controls. The workers were also placed in a protected environment under the roof of many social security legislations and other effective industrial laws. The unorganized sector was largely left out of controls. After the adoption of the new economic policy in 1991, Indian society is almost out of these 'protectionism' and now exposed to the challenges of globalization, privatization and liberalization.¹

In this changed economic scenario, a major part of the labour force in the organized as well as unorganized sectors is exposed to many unforeseen casualties. Some of these problems are direct and some others, indirect. These policy changes that have taken place pose some basic questions. Whether Indian labour is mature enough to face the

¹ Labour Welfare and Social Security, Anil Kumar, Deep & Deep Publications, Delhi, Page 8.

challenges? Whether the current legal framework of social security is adequate enough to protect the workers?

1.2 Social Security: Meaning and Content

Social security is essentially a term of Atlantic origin introduced by Abraham Epstein with a view to differentiating it from economic security. It is both a concept and a system. The concept of social security is very old, though the term, the laws and institutions built around it in order to institutionalize the concept may be of recent origin. Social security conveys a meaning that necessitates a security in the society in case of contingencies. But it also extends to security by state in case of contingencies.

The term social security, its meaning, its denotation and connotation are vague. It speaks of a condition of the masses as a symbol of an end greatly desired and has been duly sensed by statesman. It is the principle or practice of public provision for the economic security and social welfare of individual and his family as such, through social assistance or insurance. International Labour Organization defines social security as “security that society furnishes through appropriate organizations against certain risks to which its members are exposed” i.e., the security is furnished by society, to the members of the society. The origin of society itself is an outcome of the fact that man is a social animal and he can survive only in the collective humane

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circumstances. Being a part of the society he expects help from society when he faces a risk, which is the most common factor in human life. ILO casts a duty on society to furnish that protection to its members when one is exposed to a risk in life. It is social as it represents a culmination of collective effort. This definition envisages existence of appropriate organization.²

According to National Commission on Labour (I), the concept of social security is based on the ideas of human dignity and social justice. According to the Commission the underlying 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.

² Comprehensive Social Security Scheme for Workers, Jeet Singh Mann, Pg. 15

1.3 Essential Characteristics of Social Security

A comprehensive service of social security is designed to compact the five giants in the path of social progress—want, disease, ignorance, squalor and idleness. Thus it is a programme of protection provided by security against those contingencies of modern life, sickness, unemployment, old age, dependency, industrial accidents and invalidity against which the individual cannot be expected to protect himself and his family by his own ability or foresight. According to the overview prepared by Ministry of Labour of India, social security protects not just the workman but his entire family by giving benefit packages in financial security and health care.

According to ILO social security requires to meet the contingencies like (1) unemployment; (2) sickness; (3) employment injury; (4) maternity; (5) invalidity; (6) old age; (7) death; and (8) emergency expenses. World Bank requires social security to cover (1) natural diseases; (2) health; (3) social risks; (4) gender; (5) economic and political environment. security except in special schemes for public servants, war victims and public assistance by ratifying states. Equal treatment is guaranteed regardless of residence, on condition of reciprocity. States accepting obligation are bound to make payment on the basis of invalidity, old age, survivor's employment and family benefits. But the states can prescribe minimum period of residence

for granting benefits of maternity, unemployment survivors and old age benefits.

1.4 Social Security and Indian Constitution

The Constitution of India guarantees fundamental rights to every citizen. The most significant among them is Article 21 which guarantees right to life. The Supreme Court has elaborately considered this Article many times and categorically held that right to livelihood is inherent in right to life.

The ultimate aim of social security is to ensure means of livelihood to everyone. In other words, right to social security is inherent in right to life. The specific provision relating to social security can be seen in the Directive Principles of State Policy included in Part IV, which are divine proclamations for the governance of the country. Labour policy in India must be fundamentally governed by it. Matters relating to social security are also found enumerated in the Concurrent List. Art. 38 enjoins the State to strive to promote the welfare of the people by securing and protecting a social order ensuring social, economic and political justice. Article 39 (a) provides that the State shall direct its policies towards securing the citizens, men and women equally, the

right to an adequate means of livelihood; clause (d) provides for equal pay for equal work for both men and women, Clause (e) provides to secure the health and strength of workers.

Article 41 provides that within the limits of its economic capacity and development the state, the state shall make effective provision to secure the right to work as fundamental with just and humane conditions of work by suitable legislation or economic organization or in any other way in which the worker shall be assured of living wages, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities to the workmen.

The Constitution has expressed a deep concern for the welfare of workers and has provided in Article 42 that the State shall make provision for securing just and humane conditions of work and in Article 43 that the State shall endeavor to secure, by suitable legislation or economic organization or in any other way, to all workers work, a living wage, conditions of work ensuring a decent standard of life. These³

³ Sharat Babu and Reshmi Shetty, *Social Justice and Labour Jurisprudence: Justice V.R. Krishna Iyer's Contributions*, Sage Publications, New Delhi, (2007) Pg.55

constitutional provisions express the social philosophy in labour issues.⁴

This is a socialist approach ensuring social justice, equality and dignity of a person as corner stones of social democracy. The concept of social justice in the Constitution of India consists of diverse principles essential for the orderly growth and development of personality of every citizen. The directives contained in Part IV are the common man's pathway towards the attainment of socio-economic justice. As rightly pointed out by Justice Ramaswamy⁵:

“The poor, the workman and common man can secure and realize the economic and social freedom only through the right to work and right to adequate means of livelihood, to just and humane conditions of work, to a living wage, a decent standard of life, education and leisure. To them these are fundamental facets of life....”

⁴ The Constitution of India

⁵ Air India Statutory Corporation v. United Labour Union, A.I.R. 1997 S.C. 645 at Pg. 648. Ramaswamy, J., rightly said: “To make these rights meaningful to workmen and meaningful right to life a reality to workmen a shift of judicial orientation from private law principles to public law interpretation harmoniously fusing fundamental rights and directive principle...”

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Though not justifiable, these principles are fundamental in the governance of the country and State is duty bound to apply these principles in making laws. In a series of decisions on the subject, the Supreme Court has categorically held that the State has responsibility to protect the interests of workmen for establishing social and economic democracy in which every workman realize socio- economic justice assured in the Preamble, Articles 14, 15 and 21 and Directive Principles of State Policy enshrined in the Constitution. Adopting the philosophy of the Constitution, the Government of India has enacted many labour legislations for protecting the rights of the labour class.

1.5 Labour Welfare and Social Security: Indian Scenario

In India there are several labour legislations relating to the welfare of labour force, some of which are enacted during the British regime. Few such legislation envisage giving compensation when the earning capacity of workers is interrupted as in the case of injury, or accident or lay off, lock out, retrenchment or closure. Some other legislations are declaratory, declaring the rights like freedom to form association, freedom from exploitation, equal pay, minimum wages and maternity benefit.

In India, there are a few legislations enacted for providing social security to workers, which are by and large in tune with the

Conventions and Recommendations of International Labour Organization irrespective of the fact that the Conventions have been ratified by India or not.

1.5.1 Social Security Legislations in India⁶

(a) Employees State Insurance

This is the first legislation relating to social security which was adopted by the country, after independence. The ESI Scheme aims to provide health care and cash benefit in case of sickness, maternity and employment injury but applicable to employees drawing wages not exceeding Rs.6500/- per month employed in factories and other establishments employing a minimum of 10 workers working by using power and minimum of 20 workers not using power.

The ESI Scheme is a contributory scheme and the contributions are made by employers, employees and the government as per the rates prescribed by Central Government . The cash benefits under the schemes are 70% of the wages as monthly pension for death or permanent total disability and the same amount is paid for temporary disability for the disability period. The ESI scheme is administered by Employees State Insurance Corporation which consists of nominees of Central Government, State Government and representatives of employers and employees. The Corporation is administered in a three-tier set up

⁶ Labour Welfare and Social Security in Unorganized Sector, Meenakshi Gupta, Deep & Deep Publications Page 87

with headquarters, regional offices and local offices. The administration of medical benefit is vested with each State government.

b) Maternity Benefit

India is one of the first countries to enact laws for maternity protection. Under Art.42 of the Constitution of India, the state has a responsibility to make provisions for maternity relief. The Maternity Benefit Act enacted in 1981 is applicable to all factories, establishments, plantations, mines and shops where 10 or more persons are employed. Apart from this Act maternity benefits are also provided under ESI Act where an insured woman is entitled to maternity benefit in the form of periodical payments in case of confinement, miscarriage or sickness arising out of pregnancy. They are also entitled to medical care during maternity under ESI Scheme. In order to avoid overlapping, the factories or establishments and persons covered under ESI Scheme are excluded from the purview of Maternity Benefit Act. There is no wage limit for coverage under Maternity Benefit Act applicable to women above wage ceiling under the ESI Act. National Maternity Benefit Scheme has been introduced in the year 1995.

(c) Old Age Benefits

The benefit at old age and during other period of invalidity is covered under Employees' Provident Funds and Miscellaneous Provisions Act, 1952. This Act covers factories and establishments employing

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20 or more employees in industries and establishments as notified in the schedule by Central Government. Under this Act also the wage ceiling is Rs.6500/- per month but there is provision for voluntary coverage and also for continuance of coverage of a person even after he crosses the ceiling. Family Pension Scheme of 1971 was substituted by the Old Age Invalidity and Survivorship Pension Scheme 1995. The Employees Deposit Linked Insurance Plan was also introduced in 1976 where the employees have to contribute to this fund.

(d) Retiral Benefits

Gratuity is a terminal benefit, paid lumpsum, complementary to periodical pension payments, paid under Payment of Gratuity Act, 1972 for those who have completed 5 years of continuous service. The gratuity is paid at the rate of 15 days wages for every completed year of service or part thereof in excess of 6 months subject to a maximum of Rs.3,50,000/-. The wage ceiling for application of the Act was renewed in 1994. In 1997, the Act was amended and now it is required that the employer should get insured for his liability for payment of gratuity under the Act.

(e) Redundancy and Termination Benefits

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The Industrial Dispute Act, 1947 contains provisions for compensation for lay off and retrenchment. Retrenchment covers all cessation of employment except voluntary retirement, superannuation and termination of service of workmen on the basis of continued ill-health or by way of disciplinary proceedings. In case of retrenchment, workers are entitled to 15 days wages for every completed year of continuous service, or any part thereof in excess of 6 months. Where the company is laid off workers are entitled to a compensation for the laid off period if they have completed one year of continuous service subject to certain conditions .

(f) Accident/ Injury Benefits

Workmen's Compensation Act, 1923 is another enactment for providing social security measures to workers and their dependants on injury or death caused during the course of employment. The object of the Act is to make provisions for payment of compensation by certain class of employers to their workmen for injury due to accident. The compelling reasons behind the Act were growing complexity of industry with the increasing use of machinery and consequent danger to workmen along with the comparative poverty of workmen themselves. It is a guarantee against hazards of employment to which a workman is exposed because of his employment. This Act, casts a duty on the employer to pay compensation in the case of death of

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workmen or on his total or partial disablement due to an accident happened in the course of or arising out of employment or occupational disease. But this liability is limited and subject to the provisions under the Act. The judicial pronouncements extended the scope and applicability of the provisions by notional extension of time and space of employment. But, later, courts restricted its application and in a nutshell many of the accident claims are taken out of the provisions of the Act.

All these schemes aim at economic security to workers in India. Economic security includes continuous employment with assured source of income adequate for meeting basic needs. The existing legislations, in one way or other impose restrictions on their extensive application and implementation of social security schemes under them. Moreover, there is no uniformity in the coverage of various schemes. In the changed economy, the labour policy also has to undergo thorough scrutiny so as to ensure protection to workers in this challenging world. How these challenges can be tackled with maximum benefit to the labour community and with limited burden to the management and society is the major issue that should invite closer scrutiny.

1.6 Labour and Social Security: Some Basic Principles

Social Security is a term having no definite meaning. There are two main schools which analyze social security in different angles. One school is represented by International Labour Organization that limits scope of social security to maintenance of one's income against loss or diminution⁷. This is described as protective form of social security. The other school views social security in a broader perspective. It is a basket of policies and institutions fashioned to enable a person to attain and maintain a decent standard of life. This is described as preventive or promotional form of social security⁸.

Many view social security as a system of proper distribution of income and also as a right mechanism of wage fixation. The poverty reduction is not a separate welfare issue but it goes along with the issue of industrial relations and social relations. Recently, the concept of social security (safety) nets has emerged. Social safety nets are measures adopted to mitigate the⁹ negative effects of structural adjustments mostly in the form of cash payments. World Bank has introduced social funds for building up local level capacity and social protection to provide basic social support to citizens based on their

⁷ International Labour Organisation, *Approaches to Social Security: An international Survey*, (Geneva), 1942 Pg.83

⁸ Report, 'Social Protection Strategy: from Safety Net To Spring board', World Bank Group, Human Development Network. www.worldbank.org

⁹ See, World Bank Report, *Social Risk Management: A New Conceptual Framework for Social Protection and Beyond* (2000) www.worldbank.org

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needs. Social security is distinct from this social safety net because the former is the universal need of all workers and the latter is for those who are permanently or temporarily thrown out of the system. Some opines that social security needs to be viewed as a basic right rather than a charity. As far as India is concerned, it cannot adopt solely one view of social security excluding all others. It has to take a collective approach which include preventive, promotional and protective as the case may be. In India, social security encompasses social insurance, social assistance, social protection and social safety net. But the exponents of a new theory argue that social security is not one of the primary functions of the government. Social security, according to them should not charge public exchequer and it should be left open to the citizens to buy whatever services or provisions he can to equip himself with security.¹⁰

The main allegation put forward is that social security situation in India is characterized by ambiguity in policy as well as in responsibility¹¹ and lack of effective implementation of legislations. There are many schemes but these have been framed at various points of time and, therefore, do not conform to any overall design reflecting a comprehensive and consistent policy or direction. The working group

¹⁰ The followers of this view believe that state should confine to its essential functions only and withdrawing state from all other activities.

¹¹ Michael V Hauff, "Geramn Welfare State Some Aspects" M M Sankhdhar and Sharda Jain (Eds.), *Social Security, Welfare and Polity*, Deep and Deep Publications Pvt Ltd, New Delhi (2004), Page 285

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on Labour Policy¹² set up by the Planning Commission also pointed out that ‘the schemes of social security, types of benefits or protection provided there under do not conform to any overall plan or design. As a matter of fact, there is no policy on social security, no plan for social security and the Five Year Plans are practically silent about this important aspect, though the Indian Constitution visualizes a regime of social security. The public expenditure on social security in India is 1.8% of the GDP against 4.7% in Sri Lanka and 3.6% in China.¹³ This itself shows the disparity of human development that these countries have achieved and that we are yet to achieve. In the light of the inadequate expenditure on social security in India, it is necessary that plans and programmes be devised to address the needs of diverse vulnerable sections of the people, comprising the total population of India.

¹² Report of Working Group for 11th Five year Plan(2007-2012) under the Chairmanship of Prof. B.L.Mungekar

¹³ World Labour Report, 2000. www.ilo.org/public/english/protection/socsec/wlrblurb.htm

1.7 Some Important ILO Conventions

A. Social Security (Minimum standards) Convention, 1952

The Convention Consolidates the main provisions of the provisions ILO instruments relating social security and establishes minimum standards for 9 fundamental branches of social security namely medical care, sickness, unemployment, old age, employment injury, family, maternity, invalidity, and survivor's benefit . The principles anchored in Convention No. 102 are: guarantee of defined benefits; participation of employers and workers in the administration of the schemes; general responsibility of the state for the due provision of the benefits and the proper administration of the institutions; collective financing of the benefits by way of insurance contributions or taxation. The Member States are allowed to ratify the Convention partially.

But the partial ratification is subjected to certain conditions viz., ratifying states must secure at least three benefits out of 9 benefits covered by the convention and at least one from Part IV, V, VI, IX and X. The persons covered are prescribed classes of employees, active population of residents and families of beneficiaries. The instrument indicates the manner of calculation and applicable limits. Equality in treatment of non-nationals and nationals is also ensured by this Convention, if money is paid from public fund.

B. Equality of Treatment (Social Security) Convention, 1962

The Convention has been ratified by 38 member countries. This Convention is designed to secure equal treatment of nationals and non-nationals including refugees and stateless persons.

C. Convention on Maintenance of Social Security Rights, 1982

In effect this convention is considered as supplementary to the Social Security (Minimum Standards) Convention 1952, Equality of Treatment (Social Security) Convention, 1962. Under this convention various branches of social security are offered. It lays down that each member shall endeavour to participate with every other member concerned in schemes for the maintenance of rights in the course of acquisition, as regards each branch of social security and for which everyone of these members has legislation in force, for the benefit of the persons who have been subject to their legislation. Such schemes for maintenance of rights in case of acquisition shall provide for periods of insurance, employment, occupational activity or residence to be completed under the legislation of the concerned members.

D. Income Security Recommendation, 1944

This recommendation aims at formulating general principles to be followed by states in making income security schemes for employed persons and their dependants. It recommends that such schemes should be founded on compulsory social insurance supplemented by

assistance measures. The risks covered under this recommendation are sickness, maternity, invalidity, old age, death of the wage earner, unemployment, emergency expenses and employment injuries. Suggestions for application of guiding principles detailed in other provision are also given in the annexure to the recommendation.

E. Social Security (Armed Forces) Recommendation 1944

The recommendation requires the member states to ensure that persons discharged from the armed forces and assimilated services receive a special grant proportionate to length of service on their discharge and treated under employment insurance schemes. It is a recommendation that has been adopted in the context of Second World War, but relevant for all cases of armed conflict.

F. Maintenance of Social Security Rights Recommendation, 1983

It aimed at providing minimum guidelines to be followed by the members who ratified the convention. The recommendation and its annexure contains model provision for all those instruments scheme for various benefits, trilateral or multilateral agreements that are required to be implemented or concluded between the parties.

G. Sickness Insurance (Industry) Convention 1927

This convention adopted in its 19th session on 25th May 1927. This convention is concerning sickness insurance for workers in industry

and commerce and domestic servants. It consists of 18 Articles and ratified by 28 member countries.

1.8 Judicial Pronouncements

In Peoples Union for Democratic Rights vs. Union of India¹⁴; it was held that the non payment of minimum wages to the workers employed in various Asiad Projects in Delhi was a denial to them of their right to live with basic human dignity.

In Olga Tellis Vs. Bombay Municipal Corporation¹⁵, by considering Article 39 (a) and 41, it extended the meaning of 'life' in Article 21 and held that it includes 'right to livelihood' also.

In Chemeli Singh vs. State of U.P¹⁶, it was held that right to shelter is a Fundamental Right under Article 21. Right to live guaranteed in any civilised society implies right to food, water, decent environment, education, medical care and shelter. All Civil, Political, Social and Cultural rights enshrined in the Universal Declaration of Human Rights and conventions or under the Constitution of India cannot be exercised without the basic human rights. Shelter for human being therefore is not a mere protection of his life and limb. Right to shelter therefore includes adequate living space, safe and decent structure,

¹⁴ AIR 1982 SC 1473

¹⁵ AIR 1986 SC 180

¹⁶ AIR 1986 SC 180

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clean and decent surroundings, sufficient light, pure air and water, electricity, sanitation and other civic amenities like roads etc.

By the above said decisions the State's liability to provide for adequate means of livelihood, to raise the level of nutrition and the standard of living under directives 39(a) and 47 are made Fundamental Rights under Art.21. The directive issued to the State under Art.51 to respect the international law and treaties was also recognized.

In Paramananda Katara vs. Union of India¹⁷, the professional obligation is casted upon all doctors whether private or Government to extend medical aid to the injured immediately to preserve life without waiting for legal formalities.

In Paschim Bengal Khet Mazdoor Samiti vs. State of West Bengal¹⁸, denial of medical aid by government hospital to an injured person on the ground of non availability of beds amounted to violation of Article 21.

In Consumer Education and Research centre Vs. Union of India¹⁹, Right to health and medical care is a Fundamental Right under Art. 21 as it is essential for making the life to the workman meaningful and purposeful with dignity of person. Right to life includes right to livelihood, better standard of life, hygienic conditions in workplace

¹⁷ AIR 1989 SC 2039

¹⁸ (1996) 4 SCC 37

¹⁹ (1995) 3 SCC 42

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and leisure. The Supreme Court went one step further and laid down guidelines to be followed by all asbestos industries either private or government by virtue of Article 42.

Further in Kirloskar Brothers Ltd., Vs. Employees State Insurance Corporation²⁰; and in State of Punjab Vs. Mohinder Singh Chowla²¹, it was held that the right to health is a fundamental right of a workmen and 'the amount spent towards treatment has to be reimbursed'. In Neeraja Chowdari vs. State of M.P.²², it was held that it is not enough merely to identify and release the bonded labour and they should have been suitably rehabilitated. In Vincent Parikurlangara vs. Union of India²³, the Right to maintenance and improvement of Public Health is included in the right to live with human dignity.

By the above decisions the directives under Arts. 39 (e), 42 & 47 were given the status of Fundamental Right under Article 21.

Even before the insertion of Art. 21- A by the 93rd Amendment Act, in Mohini Jain Vs. State of Karnataka²⁴; and following the said judgement in Unni Krishnan P.J Vs. State of A.P.²⁵; also the right to education is recognised as Fundamental Right under Article 21.

²⁰ (1996) 2 SCC 682

²¹ AIR 1997 SC 1225

²² AIR 1980 SC 470

²³ (1987) 2 SCC 165

²⁴ (1992) 3 SCC 666

²⁵ (1993) 4 SCC 111

In Sameer vs. State²⁶, the Supreme Court emphasized that it is the duty of the state under this directives (Article 41) not only to establish educational institutions but also effectively secure right to education by admitting students to the seats available at such institutions and the states action must conform to the standard of equality and rationality underlying Article 14.

Similarly, the directive under Article 39(d) viz., equal pay for equal work for both men and women read together with the equality clauses enshrined under Articles 14 to 16 and was given effect to in Randhir Singh vs. Union of India²⁷ the Supreme Court has held that the principle of "Equal pay for equal work" though not a fundamental right is certainly a constitutional goal and, therefore, capable of enforcement and also in D.S. Nakara v. Union of India²⁸ the same was reaffirmed.

1.9 Conclusion

The historical and conceptual analysis of social security reveals that the term itself has undergone gradual but drastic changes in its meaning and content. In the initial stage it was a charity to the poor. The international documents and I.L.O. principles, transformed it in to a basic human right, which protects the worker from economic

²⁶ AIR 1982 SC 66

²⁷ AIR 1982 SC 879

²⁸ (1983) 1 SCC 305

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distress. International agencies like I.L.O have played a significant role in the development of the principles of social security and in attaining its universal acceptance. In India, the laws governing social security enacted by the British are still in force with some minor amendments on coverage or on contribution amount, without any substantial changes to the provisions.

The major drawback of the legal framework covering the social security system in India is the multiplicity of laws, shortage of coverage, lack of policy, scarcity of implementation mechanism and above all, lack of clarity in principles which need to be followed.

Moreover, there are many governmental schemes or packages with unchecked discretionary powers to administrative authorities causing serious governance issues in the areas of transparency and selection of beneficiaries. legislations like National Rural Employment Guarantee Act, 2005 and Unorganised Sector Social Security Act, 2008 were passed by Parliament while several other Bills are still pending. These measures will strengthen the ongoing welfare approach and help the welfare schemes to face the changes introduced by globalization. For instance, the Bill to amend the Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by Certain Establishments) Act, 1988 is proposed for making the

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enforcement and compliance of labour laws faster and easier with the help of information technology. Another Bill to amend Payment of Gratuity Act, 1972 will cover teachers in educational institutes while the Bill to amend Employees' State Insurance Act, 1948 enables the utilization of medical facilities of Employees State Insurance Corporation to implement the Rashtriya Bhima Yojna are pending for getting Parliament's approval. Amendment to Plantation Labour Act, 1951 to add a new chapter on safety and amendment to Workmen's Compensation Act, 1923 in order to replace the term workmen by employee to make it gender neutral are also pending. Though these amendments do not solve the problems of labour in the globalized world, they would add to efforts to make the welfare measures more attractive and adaptable to globalization.

In the organized sectors also there are a lot of workers who are working on 'daily wages' or on contract for short period and hence virtually they are out of the "protection" of the organized sector. The names of these daily or contract wagers may not be in the pay rolls and there will be no evidence in office about their whereabouts as they come to do work, get wages and go. Another group is those who work under the outsourcing agencies who do not even know anything about their real employers. At the same time there are developments on the part of the government through policies by relocating a

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protected employee to an unprotected condition through various restructuring feasibility of categorising workers as organized and unorganized. This makes the “organization centered classification” to be shifted or changed to “worker centered classification” on the basis of job security and income. Thus, in general this classification can be termed as formal or informal workers.

The main objective of welfare measures for workers is to provide social security in periods of unstabilised economic condition. For achieving this objective, innovative public measures should be adopted along with traditional security measures for sickness, old age, death etc. Hence to ensure social security, the state has to: (a) provide a replacement of lost earning; (b) promote health by providing medical care; and (c) provide assistance to families.

Apart from the constitutional and welfare obligation, being a founder member of I.L.O. India has a solemn obligation to consider I.L.O. agenda viz., right to work and fundamental principles. Though India has not ratified I.L.O.’s Convention on Social Security, India right from independence is following the principles of I.L.O. Hence there will not be any legislative restrictions on India for incorporating I.L.O. mandates to reshape the social security system in harmony with economic reforms, with the support of international community.

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Considering all factors, the social security benefits which the state can provide be classified in to (a) old age benefit (b) disability benefit (c) death benefit (d) sickness benefit (e) maternity benefit (f) medical care benefit (g) employment injury benefit- on death, temporary/permanent disability, medical services (h) unemployment benefit and (i) family benefit.

In order to provide social security under the above said heads, the state has to streamline its approach towards the concept. In order to uphold the constitutional mandate, the state has got mandatory duty to recognize social security as a right and to find measures to ensure that right. The present incomprehensive ad hoc mechanisms under different schemes are not at all feasible in the current condition. A right based approach will enhance confidence in the minds of the workers and definitely that confidence will be reflected in the augmentation of social development. All the social security measures should be promotional and protective in the nature.

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