



SOCIAL SECURITY IN INDIA: CONSTITUTIONAL FRAME WORK

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ABSTRACT

When we look at the preamble of Indian Constitution we can trace the words like “WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens: JUSTICE, social, economic and political; LIBERTY of thought, expression, belief, faith and worship; EQUALITY of status and of opportunity; and to promote among them all FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation; in our constituent assembly this 26th day of November, 1949, do hereby adopt, enact and give to ourselves this constitution. This gives us a clear picture of the intention of the constitution towards the people of India. Coming to the government, this is elected by the people and also considered as the representative of the people. Hence the government has to look after all the needs of the people from birth to death, in other words it can be termed as social security. India being a welfare state, has taken up the responsibility of social security to citizens through various scheme as envisaged by the constitution of India. Social security is a integral part of fundamental rights embodied in the constitution of India. In somany cases the supreme court of India said that the principle aim of the socialism is to eliminate inequality of income, status and standard of the life and to provide a decent standards of life to the working people. These objectives can be achieved through fundamental rights and directive principles of state policy enumerated in constitution of India. Based on this somany legislations has been enacted to protect and enhance the social security in the country. In this connection, the present paper going to discuss the various aspects of the constitution of India toward the social security in India.

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INTRODUCTION

When I was child I use to hear that in news ‘the total crops were collapsed due to heavy rains’, the formers demanded the government to grant funds. I was in doubt that if the crops fails or collapsed due to rains or etc, why the government has to respond and pay funds to the farmers for their losses because of heavy rains. But now I can say that the government has to pay ex gratia to the farmers if crops fails or collapsed due to heavy rains or drought. Because now I know the constitution of India and the provisions of social security embodied in constitution of India. Based on that the government has to make provisions for the protection of its citizen in other words it can be called as ‘Social Security’.

21st century is the icon of the advanced development when we compaire with last centuries, today the society is facing uncertainties which has been never expected or known. The responsibility lies on the government to its citizens to protect them from uncertainties like, unemployment, medical illness, disability to work, maternity, physical risks, old age benefits, and life insurance etc. In constitution of India provisions were inserted for social security, based on that central and state government has to make provisions for social security for its citizens. Say for example. The present central government famous slogan that ‘make in India’ with this somuch employment will generate but the government has to protect the interest of the employees through rules and regulation for the foreign investments.

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Social security: Social security means that government, which is the symbol and representative of society and it is responsible for fixing a minimum standards of livings for all its citizens.

As we all know India is a agriculture based country. In olden days the joint families were in existence, if any member of the family get any disease or sickness or disability, remaining family members were use to look after them economically and emotionally. But this picture has been changed by the industrialization. Industrialization created a new class of "workers", to work in the company the workers has to disconnect with their joint families and villeges and they wre completely dependent on their wages. if anything happens to the worker man or woman in the family, the livelihood of the family in question. As the advancement in human life the concept of social security taken place to cover the all aspects of human beings from birth to death, like pre-natal, meternity benefits, medical care, unemployment, death benefits etc. India being a welfare sate has taken up itself the responsibility of extending various benefits of social security and social assistance to its citizens. The social security legislations in India adopted the strength and spirit of constitution of India.

The constitutional frame work for social security in India:-

Fundamental rights: The fundamental rights were included in the constitution because they were considered as essential for the development of the personality of every individual and to preserve human dignity. Fundamental rights are the basic rights of the human beings. The fundamental rights are defined as basic human freedoms that every citizen of India has right to enjoy for a proper and harmonious development of personality. Fundamental rights protects the individuals from any arbitrary state action. For instsance the constitution abolishes untouchability and also prohibits beggar. Right to social security has not been in the part of fundamental rights however it reflects in each and every fundamental rights. Because of fundamental rights so many legislations has been enacted. For example Right to Education is the fundamental right, we have an enactment (RIGHT TO EDUCATION ACT)to protect the interest of the economically backward section, through this the merit students who are not in a position to pay corporate fees, they can admitted in corporate schools. I feel it is a social security through fundamental right. Like wise we have some more legislations also are in existence.

Directive principles of state policy: Part IV (Article 36-51) of the Constitution contains the directive principles of state policy. The principles reflect a unique mixture of humanitarian, socialist percept's, Gandhian ideals and democratic socialism. Though non-justifiable, they constitute the fundamental principles of governance. These directives are in nature of directions to the legislative and executive wings of government to be observed while formulating laws and policies. Most of them aim at the establishment of economic and social democracy which is pledged for in the preamble. Our Constitution aims at bringing a synthesis between fundamental rights and directive principles between fundamental rights and directive principles of state by giving the former a pride of place and the later a place of permanence. Together, not individually, they form the case and conscience of constitution. Directive Principles of State Policy are in the form of instructions/guidelines to the governments at the center as well as states. Though these principles are non-justifiable, they are fundamental in the governance of the country. The idea of Directive Principles of State Policy has been taken from the Irish Republic. They were incorporated in our Constitution in order to provide economic justice and to avoid concentration of wealth in the hands of a few people.

Therefore, no government can afford to ignore them. They are in fact, the directives to the future governments to incorporate them in the decisions and policies to be formulated by them. Directive Principles of State Policy have been grouped into four categories. These are: (1) the economic and social principles, (2) the Gandhi an principles, (3) Principles and Policies relating to international peace and security and (4) miscellaneous. The economic and social Principles the state shall endeavour to achieve Social and Economic welfare of the people by: (1) providing adequate means of livelihood for both men and women. (2) Reorganizing the economic system in a way to avoid concentration of wealth in few hands. (3) securing equal pay for equal work for both men and women. (4) Securing suitable employment and healthy working conditions for men, women and children. (5) Guarding the children against exploitation and moral degradation. (6) Making effective provisions for securing the right to work, education and public assistance in case of unemployment, old age, sickness and disablement. (7) Making provisions for securing just and humane conditions of work and for maternity relief. (8) Taking steps to secure the participation of workers in the management of undertakings etc. (9) promoting education and economic interests of working sections of the people especially the SCs and STs. (10) securing for all the workers reasonable leisure and cultural opportunities. (11) Making efforts to raise the standard of living and public health. (12) Providing early childhood care and education to all children until they complete the age of 6 years.

By the 42nd amendments, certain changes have been introduced in part IV, adding new directives to accentuate the socialistic bias of the Constitution: Article 39 A has been inserted to enjoin the state to provide 'free legal aid' to the poor and to take other suitable steps to ensure equal justice of all, which is offered by the Preamble. Article 43 A has been inserted in order to direct the state to ensure the participation of workers in the management of industry and other undertakings. This is a positive step in advancement of socialism in the sense of economic justice. Article 48 A has been inserted in order to direct the state to protect and improve the environment and to safeguard the forests and wild life of the country.

Union, state and concurrent lists on social security system:

Part-XI of the Constitution of India deals with the relations between the Union and the States. Article 246 defines the scope of the Union and State Legislatures in making laws in accordance with separate lists of prescribed under Schedule-VII of the Constitution. List-I is the Union List, List-II is the State List and List-III is the Concurrent List. Union Legislature/Parliament has the exclusive power to make laws pertaining to the subjects mentioned in List-I. These are applicable throughout the country. State Legislatures have the exclusive power to make laws pertaining to the subjects mentioned in List-II. These are applicable only within the territorial jurisdiction of the respective states. In respect of List-III both the Parliament and the State Legislatures have power to make laws. However, in the event of any conflict Union Legislature will prevail over the State Legislature.

Item No. 9 of the State List and Item Nos. 20, 23 and 24 of the Concurrent List relates toold age pension, Social Security and Social Insurance, and economic and social lanning. In the Constitution of India, entry 24 in list III of schedule VII deals with the "Welfare of Labour, including conditions of work,

provident funds, liability for workmen's compensation, invalidity and old age pension and maternity benefits. Further, Article 41 of Directive Principles of State Policy has particular relevance to Old Age Social Security 23. Under Article 246 of the Indian constitution, issues related to labour and labour welfare come under List –III that is the Concurrent List. Exceptional matters related to labour and safety in mines and oilfields and industrial disputes concerning union employees come under Central List. In all there are 47 central labour laws and 200 state labour laws. The three main acts that are the cause of contention are the Industrial Disputes Act (1947), the Contract Labour (Regulation and Abolition) Act (1970) and the Trade Union Act (1926).

Conclusion

In conclusion I can say social security is not a concept but is the part of the society. We all are in the era of globalization whole world is now called as 'vasudiva kutumbakam'. When it called as vasudiva kutumbakam it the responsibility of each and every individual to look after the world around us as a part of our life. Even though the constitution having provision regarding social security, as a human being we have to protect the fellow human being to protect the interest of next generation.

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