

THROUGH A VARIETY OF JUDICIAL DECISIONS, ANALYZES THE SOCIAL SECURITY CONCEPT IN INDIA

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Abstract : This paper reviews social security's expansion and some of the contributing factors to the changes that have occurred from the legal point of view. In India poverty still exists, and many people are concerned about the future of social security. The topics of targeted universal benefits, social insurance, universal basic income, and social assistance all pertain to social security. There are suggested changes and actions to support the social security system's continued existence as a crucial component of a just and civilized society. Despite the fact that there are several laws and regulations protecting numerous vulnerable groups, justice is frequently delayed. The implementation of the policy lags far behind. We require a few, well-targeted social security programs that address both fundamental and unforeseen requirements. In order to create poverty alleviation plans that are particular to each region, states should have more flexibility. Social One of the most crucial components of a welfare state, which aims to offer a safety net for the nation's residents, is security. According to various Articles and Sections of the Indian Constitution, the state is required to take the necessary steps to protect the right to work, the right to an education, and the right to public assistance in the event of unemployment, old age, illness, or disability, as well as in other situations of unjustified need, while remaining within the parameters of its economic competence and growth.

Keywords- Social Security, Law, Constitution, Judicial Decisions, Welfare State, India

1.0 Introduction

Since the after independence of India, there has been a growing understanding that social fairness must be the foundation of any international peace agreement. The most recent Constitutions place a strong emphasis on the social and economic principles, which include, among other things, the necessity for the State to work towards social security and to offer its inhabitants employment, education, and adequate working conditions. The most effective program of the modern welfare states is frequently cited as social security. But it's present long-term viability is uncertain. According to the International Social Security Association, globalization would likely reduce older people's pension income but increase their wealth and capital income, which will somewhat increase their overall purchasing power. Our founding fathers heavily drew on their past experience when developing the Fundamental Rights and the Directive Principles in addition to the experience they had gained from traveling the world. The Human Rights Act serves as the foundation for the Fundamental Rights and Directive principles. The liberal idea of individual rights defending the individual and the democratic principle itself, which affirms equality of rights and popular sovereignty, have been the fundamental forces in the development of modern democratic philosophy. The issues with social security and economic planning have increased as a result of the steady expansion of the idea of equality from the political to the social and economic fields. The fundamental issue with democracy has been and still is the implementation and harmonization of these ideals. A worker in India is entitled to other moral rights like the right to social security, unemployment insurance, and other reasonable facilities, as well as a just wage that is sufficient to support his family. Additionally, laws controlling social security, unemployment insurance, and other relevant matters may be passed by the State Legislature and Parliament. Everyone should have access to social justice and a minimally adequate level of living, according to social security. Everyone should have access to a fundamental level of education, as well as to public health and safety. In this paper, the author will examine the idea of social security in India using judicial rulings issued by various Indian courts and the ensuing developments.

2.0 Phage of Social Security in India

The word "Social Security" encompasses a wide range of rights. Social Security has never had a clear definition and will always be a mystery. "Social Security involves an onslaught on want, disease, illiteracy, squalor, and sloth," claims Sir Beveridge. Social Assistance and Social Insurance are both included in Social Security Schemes. Through its institutions, the government offers these defenses against specific hazards thanks to the combined contributions of the state, employers, and workers. The word "Social Security" first appeared in the title of an American law in 1935, when the Social Security Act was passed. Social security, according to Madhava Rao P. (2002), is the financial security provided by society as a whole or by families, communities, organisations, and other social groupings for a person's social well-being throughout his or her life from conception to death. Social Security laws differ from country to country. Social security is defined differently by various organisations. According to Investopedia, the term "Social Security" refers to the Old-Age, Survivors, and Disability Insurance programme in the United States that is run by the Social Security Administration, a federal agency. It offers disability income and survivor benefits, but is best recognized for its retirement benefits. It exists separately from a lump-sum pension. The right to social security, as defined by the Committee on Economic, Social, and Cultural Rights, is the ability to obtain and maintain benefits, whether in cash or in kind, without hindrance in order to secure protection from, among other things: (a) a lack of work-related income brought on by illness, disability, maternity, employment injury, unemployment, old age, or the death of a family member; (b) unaffordable access to health care; and (c) insufficient family support, particularly for women. In accordance with Article 22 of the Universal Declaration of Human Rights, Social Security is not specifically defined in the Indian Constitution, although Parts III and IV of the document embody its principles. Social Security is described as the measures of protection afforded to employees to ensure the availability of health care and ensure income security, particularly in cases of old age, unemployment, sickness, invalidity, work injury, maternity, or loss of a breadwinner by means of rights established and schemes framed under the Code, according to The Code on Social Security, 2019. The Bill has not yet entered into force, nevertheless.

The courts have adopted an activist stance in order to confront the silences surrounding Social Security through numerous judicial rulings.

3.0 The Objective of this Paper

- To Know Analysis of the Concept of Social Security in India
- To know Through Judicial Decisions and Legal Perspective of Social Security

4.0 Directive Principles and Social Security, Judicial Approaches to Fundamental Rights in Relation

In the middle of the 20th century, when the concept of a social welfare state was popular, the Indian Constitution was designed and written. Thus, the Constitution provides a modern interpretation of the purposes and responsibilities of government. It is quite clear that India will gain international acclaim as a social welfare state, or a country that advances the general welfare of its citizens by offering social services. It stands for a specific political stance. In the formulations and declarations of the social goals contained in the Preamble, one can clearly detect the impact of contemporary political philosophy, which views the state as an organ to safeguard the good and welfare of the people. This notion of a welfare state is further supported by the Directive Principles of State Policy, which set forth the political, social, and economic goals of the Indian Constitutional system. These rules require the government to advance societal norms including employment, good health, and education as well as social welfare. They also give citizens a number of non-justiciable rights. In this sense, the Constitution contributes to the realisation of political, social, and economic democracy. In his final address to the Constituent Assembly, Dr. Ambedkar emphasised this theme as well, saying that social democracy must be the cornerstone of political democracy in order for it to endure. Through its numerous articles on Fundamental Rights and Directive Principles of State Policy, the Indian Constitution both expressly and implicitly guarantees "social security." The Supreme Court has freely and broadly construed the term "life." Over time, the Court's definition of "life" has become more expansive. In *Munn V. Illinois*, Field, J., made the following observation: "By the term 'life' as here used, something more is meant to mere animal existence." The Court has frequently cited this statement. The prohibition against its loss applies to all the limbs and faculties that are used to enjoy life. The clause also forbids the disfigurement of the body by the loss of an arm or a leg. According to Bhagwati, J., who made a similar statement in *Francis Coralie v. Delhi*, "we think that the right to life includes the right to live with human dignity and all that goes along with it, namely, the bare necessities of life such as adequate nutrition, clothing, and shelter over one's head and facilities for writing, reading, and expressing themselves in diverse forms, being able to move about, and mixing and commingling with fellow human beings."

The prohibition against denying someone "life" would then encompass all of the capacities that permit life's pleasure. The Supreme Court's excellent words perfectly encapsulate the social security spirit. The role of the court is to make India's ideal of social justice a reality. The social security idea is composed of a number of ideas, according to the Supreme Court, that are necessary for the proper development of each citizen's personality. Justice in its fullest definition includes social justice. Social justice is one of the species that make up the genus Justice. Social justice is an active tool that reduces the suffering of the weak, Dalits, tribes, and other disadvantaged groups in society and brings them up to a level of equality where they can live with dignity. The objective of Social Security is to substantially advance social, economic, and political equality as a justifiable and basic expectation. The fundamental preamble objective of the Indian Constitution is to ensure social, economic, and political equity for all of its citizens. This concept was based on and originated from the "objective resolution" Nehru made in the Constituent Assembly. The goal of India's founding fathers was to build the nation on a strong foundation of socioeconomic equity, which was inaccessible to millions of Indians at the time. Social security was envisioned by the drafters of the Indian Constitution in the Directive Principles of State Policy. The Directive Principles of Social Security's genuine nature, relevance, goal, and role were initially ignored by courts. In contrast, later on, the Supreme Court stated in the case of *Mohd Hanif Qureshi v. State of Bihar* that "a harmonious interpretation must be put up on the Constitution, and so understood it means that the state should certainly implement the directive principles, but it must do so in such a way as to not take away or abridge fundamental rights." While acknowledging the importance of the Constitution's guiding principles, the Supreme Court confirmed the 25th Amendment's legality by a majority vote in 1973. The fundamental rights could be subjected to Directive Principles in the construction of a just social order, according to Mathew, J., because they could only exist if men did.

In the *Kasturilal v. State of Jammu & Kashmir* decision, the Supreme Court also came to the conclusion that the legal framework for putting directive principles into reality includes the test for determining reasonableness and public purpose. In pursuit of the constitutional goal of social and economic fairness, the Court emphasized that any executive action or statute issued would be, at the very least, reasonable and in the public interest.

According to Justice Bhagwati, the directive principles were accorded a very high significance in the constitutional framework in the case of *Minerva Mills v. Union of India*. The fundamental rights could only be useful and significant for the millions of poor and underprivileged people who lacked even the most basic essentials of life if they operated within the constraints of the socioeconomic framework envisioned by the directive principles. As a result, it was necessary to finish the activities listed in Part IV while retaining the resources made accessible in Part III. While upholding the amendment (Article 31-C), Justice Bhagwati emphasized that the State should take steps to create socioeconomic conditions in which "there will be an egalitarian social order with social and economic justice to all," and that "this is the philosophy of distributive justice embodied in the directive principles." According to the analysis above, it is possible to achieve the directive principles' objectives without compromising the fundamental rights. The courts have expanded the extent and content of basic rights rather than limiting them by applying the directive principles. The judiciary has taken the same approach to enforcing and resolving the labor and social security issues.

The Supreme Court's decision in *Chandra Bhavan Boarding v. State of Mysore* serves as a good illustration. The question in this case was whether it would be arbitrary and in violation of Article 14 of the Constitution to set various classes of employees' minimum wages in State of Mysore lodging and dining facilities. Section 5 (1) of the Minimum Wages Act of 1948 was ruled to be unconstitutional on the basis that it gave arbitrary, no-rule power to fix minimum pay rates. Another issue was the Act's interference with one's inalienable freedom to run any type of business. While affirming the legitimacy of the Act, the Court stated the following justification for its objectives and the significance of the laws found in Article 43 of the Constitution.

The Act's goal is to combat both the exploitation of unorganised labour and sweatshop labour. It is based on the idea that the State has a duty to make sure that workers receive at least the minimum wage, regardless of a sector's or unit's capacity to do so. The State must work to ensure that all workers, whether in agriculture, industry, or another sector, have access to work, a living wage, working conditions that ensure a respectable standard of living, full enjoyment of leisure time, as well as social and cultural opportunities, in accordance with Article 43 of the Constitution. The minimum wage fixation is only the first step in that approach. Therefore, under a socialist social structure, workers have a specific place. They are not only sellers of labor; they are not a commercial goods that capital owners may buy. They are wealthy producers who produce at least as much capital, if not much more. They contribute labor, without which capital would be powerless, and they are at least partners on an equal footing with capital in the business.

The Supreme Court emphasized the importance of workers in Indian society in *National Textile Workers Union v. P.R. Ramakrishnan* and reaffirmed how deeply concerned workers should be about the socioeconomic order envisioned in the Preamble and the Directive Principles of the Constitution. Despite the fact that the Companies Act does not grant employees any rights to participate in winding-up procedures, it was decided that this right needed to be explicitly stated in the Preamble and Articles 38, 39, 42, 43, and 43A of the Constitution. Accordingly, the instruction in Article 43A, or the clause assuring a worker's involvement in management, was read into the fundamental right of the shareholders to continue operating their business or trade, which is protected by Article 19(1)(g). By way of conclusion, the Court said through Bhagwati, J.

Accordingly, "the constitutional mandate is clear and undeniable that the management of the enterprise should not be left entirely in the hands of the suppliers of capital but should also be entitled to participation by the workers, because in a socialist pattern of society, the enterprise which is a center of economic power should be controlled not only by economic power but also by capital and labor."

According to the Supreme Court's ruling in *The Workmen v. Reptakose Brett and Co. Ltd. Reptakos and Co.*, 25% of the minimum wage should also go toward the children's education, medical needs, required minimum recreation, retirement planning, marriage, etc.

The following are the precise words Chief Justice K.G. Balakrishnan used to describe the goals of the Unorganised Sector Workers' Social Security Act, 2008:

"It goes without saying that the millions of unorganized employees require a solid social security system. The Unorganised Workers' Social Security Act envisions providing benefits to unorganized workers in the event of sickness, disability, maternity, unemployment, old age, or the passing of a family's primary earner. The term "Unorganized laborers" has been defined broadly and liberally in the Act to encompass both casual workers who get daily or monthly wages as well as "home-based workers" and even small-scale farmers. Therefore, the goal of the legislation is to widen the social safety net as far as possible.

5.0 Conclusion

In a nutshell, the current social security system in India suffers from a variety of issues, including a lack of coverage, a lack of policy, and a lack of implementation mechanisms. Additionally, all of these court rulings emphasize the need for a healthy labor force in a welfare state. But it is now apparent that the Indian Judiciary is also changing how it views the new economic policies of the government as a result of the adoption of the globalization and liberalization plan. This is clear from choices made about labor-related matters, particularly those involving labor rights. After the 1950s, the judiciary in India developed labor law, which has served as a barrier protecting workers from all forms of exploitation. In this regard, Krishna Iyer, Bhagwati, and Chinnappa Reddy, J, have made substantial contributions. In all conceivable situations, the court consistently sided with labor to uphold its interests. The working conditions in India remain unchanged since all workers are subject to exploitation, with the exception of the privileged group (the organized sector), which is given legal protection. However, the globalization era's proclamations of growth had an impact on the Indian judicial system as well. It is important to examine how other nations are attempting to withstand the winds of globalization. It will undoubtedly be easier to reconcile the idea of unrestricted market freedoms demanded by companies with the demands of employees for basic rights and social protections if you have an understanding of how other legal systems operate.

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