

THE KNOWLEDGE TREE

VOL - 3



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Preface

In the past decade multiple developments have taken place which has led to changes in organisational structures, technologies and legal peripherals. Changing structures, advances in information and communication technologies and the greater reliance of companies on information indeed poses a number of challenges for maintaining good management practices. With an objective to promote fresh ideas and provide a platform to all avid writers, I am pleased to be a part of this book.

I am extremely grateful to all the reviewers, editors and all the authors for their valuable contribution to make this book a grand success. The main aim of this book is to enhance knowledge among researchers, students and the legal fraternity at large and to provide an opportunity for creative research and multi-level consideration of broader issues related to legal insight from both national and interdisciplinary perspective.

It has been a matter of great pride and honour to be associated with this book and I hope it will inspire scholars to create a new viewpoint of ideas and enrich their knowledge.

Happy reading!

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“The Constitution and Social Security: A National and International Perspective”

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INTRODUCTION

Social security refers to the measures taken by society to provide protection against specific risks that individuals may encounter, through effective organization. The risks represent potential events for which individuals with limited financial resources are unable to adequately prepare through their own capabilities or foresight, or even through private collaboration with their peers.¹ Social Security can be understood as a mechanism established by society to mitigate various forms of insecurity that may arise from natural factors such as illness or death, social factors such as substandard living conditions, individual factors such as incapacity, and economic factors such as insufficient wages and unemployment.²

The provision of financial and healthcare assistance to individuals affected by specific economic and biological circumstances is the basis for measuring social security.³ The provision of social security can support individuals who are unable to work due to old age, illness, or disability and lack the means to support themselves. This is significant as it contributes to the establishment of a welfare state and can enhance worker productivity, thereby reducing inefficiencies resulting from labor conflicts. The absence of social security measures hinders productivity and obstructs the establishment of a reliable and effective workforce. Hence, it can be argued that implementing social security measures is not a liability, but rather a prudent allocation of resources that generates favorable returns. The object of social security is to guarantee a protective atmosphere to the poor and vulnerable section of the society so as to make them be able to lead a dignified life on par with others in the society.

The concept of Social Security is characterised by a multifaceted nature, encompassing various dimensions and complexities. The concept in question primarily pertains to the 20th century. The provision of security to its citizens is a fundamental requirement for the existence of a state. The provision of protection to individuals against the negative impacts of social conflicts and inadequacies is a crucial component of social security. The pursuit of social justice is believed to contribute to the attainment of social security. Social justice and social security are interconnected, as the presence of one is often indicative of the presence of the other. The provision of unemployment benefits, maternity benefits, family allowances, old age grants, death grants, industrial injury benefits, nationalised health services, and

¹K. Madhavan Pillai, *Labour and Industrial Laws* 267 (Allahabad Law Agency Haryana, 9th edn., 2003).

²V.P. Singh, *Industrial Law in India* 79 (Asia Publishing House New Delhi, 2nd ed., 1963).

³*Supra* note 2 at 2-3.

adventitious aid to weaker sections of society are measures that every welfare state should strive to offer its citizens.

Social security legislations in India have been enacted relatively recently. The Workmen's Compensation Act of 1923 was enacted as the initial form of Social Security legislation in India, with the aim of safeguarding workers from occupational injuries. Subsequently, certain states enacted maternity legislation. Numerous conferences have emphasised the necessity of implementing additional social security measures and expanding their coverage to encompass a wider range of domains. The emergence of social security legislation and measures was observed only after the attainment of independence. The emphasis on social security schemes is reinforced by the directive principles of the five year plans.

The social security concept in India has been adopted primarily from the Anglo-Saxon legal system that is currently in practise in England. The official recognition of the term "Social Security" occurred for the first time in the United States of America. The term "Social Security" was first used in 1935 when the United States enacted the Social Security Act, which provided social security to all citizens of the country. The term was later used in the same sense by New Zealand in 1938. The concept of security is dynamic. The Department of Social Security in New Zealand administers a comprehensive scheme of benefits and healthcare services for workers, as stipulated by the relevant provisions of the Social Security Act of 1938. The term "Social Security" is commonly used to refer to these functions.

THE CONSTITUTIONAL PROVISIONS PERTAINING TO SOCIAL SECURITY ARE OF INTEREST

The inclusion of social security in List III to Schedule VII of the Constitution during the drafting of independent India's Constitution established it as a concurrent responsibility of both the Central and State Governments. The Indian Constitution has integrated several Directive Principles of State Policy that pertain to various aspects of social security. The Social Security laws in India are inspired and fortified by the Directive Principles of State Policy enshrined in the Constitution of India. Social Security is acknowledged as an essential component of Fundamental Rights in the Constitution of India. The promotion of the welfare of the people necessitates that the State exert efforts to effectively secure and safeguard a social order that upholds justice in its social, economic, and political dimensions.

As per the Indian Constitution, it is mandated that the State must endeavour to provide effective measures within its economic means to ensure the right to work, education, and public assistance for individuals in the event of unemployment, old age, sickness, and disability.

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