

4. Make the statements recorded by the police admissible as evidence in Courts.

Conclusion

The presumption of innocence ensures a fair trial which is a valuable right of an accused against State's enormous power and resources. It may be noted from the above discussion that the concept of the presumption of innocence is whittled down ultimately shifting the burden of proof on the accused persons in the various socio

economic and other legislations with a safeguard of *prima facie* placing the burden of proof on prosecution.

From the above study it is evident that the criminal justice system in India is basically an adversarial system but it has adopted certain features of inquisitorial system and at present it is combination of both the adversarial and inquisitorial system. If the trend of having these features is allowed to further grow then our system will become adversarial with inquisitorial bias.

THE CONCEPT OF SOCIAL SECURITY AND INDIAN LAW

By

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According to International Labour Organisation only one in five people in the world has adequate social security coverage. The other four need it too, but somehow must manage without. In the life of a man there are two stages of dependency, childhood and old age and in the intervening years of adult life there are likely to occur spells during which he cannot earn livelihood. The social security is the system aims to help individuals in such times of dependency. These are incidents of life occurring right from childhood unto old age and death and include mainly; sickness, maternity, invalidity, accident and industrial disease, unemployment, old age, death of the bread winner and other such emergencies.

Social security is such an important aspect, extent of its prevalence is a measure of the progress made by a country. The object of this article is to analyse the concept and definition of social security and to examine the legislations and schemes in India to implement it. Reference is also made to the ideals and standards of United Nations Declaration of Human Rights, International Labour Organisation and to social security in U.K. and U.S.A..

I. Concept and Definition of Social Security

Social Security is a dynamic concept. Being a dynamic subject no rigid limit can

be laid down for all time to come. It varies from time to time and country to country, Srivastava S.C. : Social Security and Labour Laws, p.5, Eastern Book Company, Allahabad, 1985). At all times and in every society, at every stage of development there have been sick people requiring medical aid and care, handicapped and old people unable to work for a living, Government of India, Report of Committee on Labour Welfare, 1969, p.255. In early days when human needs are limited and livelihood was based primarily on agriculture, joint families, craft guilds, churches, charitable, philanthropic and other religious institutions provided these securities.

There are different definitions have been given to the term social security, as it changes from time to time and country to country. According to Prof. B.P. Adarkar, social security is that security that society furnishes through appropriate organization against certain risks to which its members are exposed. These risks are essentially contingencies of life which the individual of small means cannot effectively provide by his own ability or foresight alone or even in private combination with his fellows. Sir William Beveridge in his report defined that Social Security is an income to take the place of earnings when they are interrupted by unemployment, sickness or accident, to

provide for retirement through age, to provide against loss of support by the death of another person and to meet exceptional expenditure such as those connected with birth, death and marriage, *William Beveridge: Report of Committee on Labour Welfare*, 1969 para 300.

International Labour Organisation defines social security as a security that the society furnishes through appropriate organization against certain risks to which its members are exposed. These risks are essentially contingencies against which the individual of small means cannot effectively provide by his own ability or foresight alone or even in private combination with fellows, ILO: *Approaches to social security*, 1942, p.83. The First National Commission on Labour was also endorsed the definition given by International Labour Organisation. In the words of Late Sri V.V. Giri social security is a security that the State furnishes against the risk which an individual of small means cannot stand up by himself or even in private combination with his fellows, *Labour Problems in Indian industry*, 1972, p. 269.

The above definitions indicates that Social security is a provision made by the society. It is a social because it represents the culmination of collective efforts and the provision is organised one. In other words it can be said that it is the security envisages that the members of a community shall be protected by collective action against social risks causing undue hardship and privation to individuals whose private resources can seldom be adequate to meet them. It includes both social assistance and social insurance, which are the two faces of the same coin.

II. United Nations and International Labour Organisation

The rights of social security is one of the significant human rights set out in the universal declaration of human rights, which the General Assembly of the United Nations adopted and proclaimed on December 10, 1948. The declaration proclaimed that everyone, as a member of society, has a right

to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic social and cultural rights indispensable for his dignity and free development of his personality, Article 22 of UDHR. Every one 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 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, Article 25 of UDHR, 1948.

International Labour Organisation, a specialised agency of United Nations, has been playing a significant role in evolving universally acceptable principles and standards of social security, which guided the developments in the field of social security throughout the world. It has recognized need for providing social security since its inception. There are in total 184 Conventions and 194 Recommendations enacted for the amelioration of working conditions of labour out of which 32 Conventions are related to Social Security. The latest Conventions on Social Security are Convention No.183 on Maternity Protection, 2000 and Safety and Health in Agriculture Convention, 2001 (C.184). India has however ratified only 5 of out of these 32 social security conventions, Convention Nos.8, 12, 17, 18, 19, 24, 25, 35, 36, 37, 38, 39, 40, 42, 44, 48, 55, 70, 71, 76, 102, 103, 110, 118, 121, 128, 130, 157, 168, and Recommendations Nos.23, 25, 44, 67, 76, 95, 121, 131, 134 and 176.

III. Social Security in U.K. and U.S.A.

Under the *Beveridge* plan a massive reconstruction and unification of the social insurance services was done in U.K. This plan has brought every man and women in the country into a comprehensive scheme

which would provide them when unemployed, ill, aged or during widowhood with a income adequate for maintenance and which would provide special grants on occasion of marriage, maternity and burial. This report was submitted in the year 1942 and suggestions were into force in England by various Acts of Parliament. The latest step towards protection is United Kingdom has entered an agreement with U.S.A. which is known as 'Totalisation Agreement', it has come into force in 1985. It provides social security protection for people who work or have worked in both countries. Like U.K., United States has entered bilateral social security agreements with seventeen countries, Austria, Belgium, Canada, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland and United Kingdom. It eliminates dual social security coverage and taxes for multinational companies and expatriate workers. In USA, social security is the single largest item in the Federal budget, consuming over 22% of total expenditures. Ninety-five per cent of workers, or 135 million people, are covered by the system. In a similar way China is spending up to 40% of its GDP on social security.

Both in U.K. and U.S.A, the principle recognized is that relief granted should not be such as to make pauperism preferable to wage earners. Therefore, the amount payable by way of social assistance would not exceed the income of the poorest paid labourer.

IV. Social Security in India

In the pre industrial society security against various contingencies was provided by institutions like joint family, caste, guild, village community, religious institutions *etc.*

(a) *Indian Constitution*

The fundamental Rights (Part III of the Constitution) and the Directive Principles of State Policy (Part IV of the Constitution) all emphasises the idea of social and economic justice, Articles 14, 15, 21, 24, 38, 39, 39-A, 41, 42, and 47 of Indian Constitution. They

also embraces principles and policies pertaining to social security measures which are to be followed by the State.

(b) *Statutory Provisions*

To fulfil Constitutional and international commitments various legislations have been enacted in India to provide social security to the industrial workers in certain contingencies. Some of the important legislations in this field are Workmen's Compensation Act, 1923, Employees' State Insurance Act, 1948, Employees' Provident Fund Act, 1952, Maternity Benefit Act, 1961, Employees' Family Pension Scheme, 1971, Payment of Gratuity Act, 1972, and payment of Lay-off and Retrenchment Compensation under the Industrial Disputes Act, 1947.

(c) *Schemes to implement social security*

Apart from these legislations government has constituted Welfare Fund for persons working in various unorganised sectors and has introduced several social security schemes in the country such as 'National Social Assistance Programme' (NSAP), it consists of three component schemes, namely, National Old Age Pension Scheme(NOAPS), National Family Benefit Scheme (Survivor benefit) (NFBS) and National Maternity Benefit Scheme (NMBS). The Public Distribution System (PDS) including Annapurna and Antyodaya Anna Yojana, Scheme to provide nutrition food for women and children including the Midday Meal Scheme. Housing Schemes for economically weaker sections, including schemes for old age homes, orphanages, and homes for deserted women, beggars, *etc.*, Schemes for Self-employment and to unemployed. Pensions schemes, such as Old-Age pension, widow's pension, Pension for Physically handicapped, Children's allowance, Pension to Leprosy patients, there is also scheme for farmers, Khetihar Majdoor Bima Yojana in which there is provision for crop and Livestock Insurance Schemes, Minimum Support Price, Fertiliser Subsidy, subsidy on Sale of Electricity, Drought Area Development Programmes, Desert

Development Programmes and other forms of assistance.

Second National Commission on Labour

Government of India has constituted Second National Commission on Labour under Chairmanship of Justice *Ravindra Varma* to make suggestions for review of existing legislations for workers in the organised sector and to recommend an umbrella legislation to assure protection and welfare to workers in the unorganised sector. It has submitted its report in the year 2002 and made several recommendations on social security aspect and specially for persons working in unorganised sector. It found that in India root cause of social insecurity is poverty and it is largely due to lack of adequate or productive employment opportunities. Some of its important recommendations are as follows:

It said that (1) there is a need to consider social security as a fundamental human right. If it is not possible we should immediately incorporate it in the Directive Principles of State Policy; (2) the term social security should be used in its broadest sense; (3) social security policy, plans and programmes in the country should be tailored to the needs of the diverse sections of the society; (4) all people, irrespective the class to which they belong, need food security, health security, old age security, provision for clothing and shelter; (5) women need maternity protection; they also need protection against widowhood, desertion and divorce; (6) there is a need for creation for separate Ministry of Social Security in the country; (7) the system of social security in India should be ultimately aim at providing social security protection to all workers against all risks or contingencies within a specified time frame; (8) the contribution system should be such that every employer and employee may be required to make a single contribution for the provision of all the benefits. And an integrated, single window approach may be devised for the delivery of services through area committees

(9) a social security fund may be established; (10) suggested for converting the employment injuries benefits under the Workmen Compensation Act, 1923 into social insurance schemes and injuries extending the benefits to all types of work; (11) making the payment of gratuity a compulsory insurance scheme covering all establishments; (12) welfare funds can be an important model for providing social security to the workers in the unorganised sector. Another mode is by introducing subsidised insurance schemes; (13) a separate organisation/facility may be set up to administer all social insurance schemes. And (14) Land Reforms are important social protection measures. The ongoing programmes should be implemented speedily.

V. Conclusion

The quest for social security and freedom from want and distress has been the consistent urge of man through the ages. This urge has assumed several forms according to the needs of the people and their level of social consciousness. The concept of social security is based on ideals of human dignity and social justice and the ultimate object of social security should be to ensure every one the means of livelihood.

Suicides, starvation deaths and selling of children due to grinding poverty are not rare incidents in Indian society, Suicide attempt by a stone cutter due to un-employment report in *The Hindu*, date 22.6.2003 and The sale of girl child reported in *The Hindu*, date 19.6.2003. The other hand the provisions contained in part III and IV of Indian Constitution amplifies and elaborates the idea of social security and social justice and they emphasise that it is the sacred duty of the State to ameliorate the lot of the poor in our land and provide social security to all. The suggestions made by Second National Commission on labour covers every citizen in the country but to implement those suggestions strong commitment and effective net work is required to provide within our country's available resources.