



# **CHAPTER I**

## **INTRODUCTION**

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# **Introduction**

## **1.1 Introduction**

In the era of globalization and liberalization, the employers always try to enhance their profits without providing adequate services and amenities for the betterment of workers. The employers consider these benefits as unwanted financial burden. So they always try to avoid providing minimum statutory requirement of the Social Security. Employers firmly believe in the method of the 'Hire and Fire'. It is believed that it is a short-term manipulation; workers are invaluable assets of any organization not to be considered as factors of production process. There are numerous industrial organizations in the Public as well as Private sectors such as Hindustan Aeronautical Limited, Oil and Natural Gas Corporation, Indian Oil Corporation and Reliance, Tatas, Sahara, and INFOSYS, in the respective sectors. These institutions have recognized and respected the dignity of the labour. Consequently, these organizations have been progressing in the era of neck-to-neck competition in India as well as at the international level. The workers consider the organization as mother of their livelihood and work with zeal for its development, provided their labour is recognized and duly paid in proportion to their efforts. Workers believe that if they work hard to achieve the organizational goal, it is ultimately the enhancement of their benefits and facilities in the institution.

As industrialization advanced the worker is increasingly alienated from his previous socio- cultural world and faced various insecurities with regard to income and employment in addition to the natural ones like, sickness, maternity, and old age, for which the new order does not have structural provisions. In ancient times if a person was unable to work on a

particular day, he was cared for by the village community or by the members of his family. But now urbanization so deeply has uprooted these values in times of sickness, unemployment, old age, and other similar contingencies, a worker has nothing to fall back upon. In modern times Social Security is influencing both social and economical policy. Social Security is the security that the state furnish against the risks which an individual of small means cannot; today stand up to by himself even in private combination with his fellow <sup>1</sup>

The term Social Security originated in the United States of America has spread through out the World. The Labour Government's Social Security Act, 1938, in New Zealand provided the most Comprehensive interpretation of Social Security at that time. Although the term has been used in such variety of ways and so broadly as to sometimes lose any value as a term of precise.<sup>2</sup> The concept of Social Security is based on the ideals of human dignity and social Justice. The underlying idea behind the 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 risks<sup>3</sup>

According to British interpretation on main purpose of any plan for Social Security is insurable against interruption and destruction of earning power and for special expenditure arising at birth, marriage or death<sup>4</sup>.

The Universal Declaration of the Human Rights, 1948 expressed the need of the Social Security in the following words:

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<sup>1</sup> Giri VV, Labour Problems in Indian Industry, P-247

<sup>2</sup> William Harbor and Wilbur J Cohen: Social Security Program Problems and Policies 1960, P-28-29

<sup>3</sup> ILO. Approach to Social Security, 1942, P-80

<sup>4</sup> Encyclopedia Britannica - Vol 20, P- 893

“Every one as a member of the society has the right to social security and is entitled to realization through national efforts and international co-operation and in accordance with the organization and resources of each state of economic, social and cultural rights indispensable of his personality”.<sup>5</sup>

The Declaration further provides that “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 or circumstances beyond his control”.<sup>6</sup>

The role of the International Labour Organization (ILO) in certain standards of Social Security has been significant. The Social Security (Minimum Standards) convention adopted in 1952 embodied universally accepted basic principles and common standards of Social Security. The application of these principles has guarded developments of this field throughout the World.

The World Development Report of 1997 states that Social Security is an essential ingredient in the protection, development and full utilization of human resources, and should, therefore be looked upon as an investment both for the development of human resources and human development. A Social Security benefits Scheme is essentially personal services to cover persons and their dependents, and its success is measured in terms of benefits as Medical, sickness, compensations, in case of disablement and so on. The Report prepared by the ILO for developing countries states that modern social security programs may be regarded as

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<sup>5</sup> Universal Declaration of the Human Rights 1948 Article –22

<sup>6</sup> Ibid Article 25

devices to redistribute income within their field and according to their structure, may divert part of the fruits of current productions for the benefits of insured workers; securing minimum pension for lower paid colleagues; speed the social cost of widowhood and invalidity, more widely by appropriate tax measures.<sup>7</sup> Social Security Schemes are important from two viewpoints: Firstly, these constitute an important step towards the goal of welfare state. Secondly, they enable workers to become more efficient and thus reduce wastage arising from industrial disputes<sup>8</sup>. The mottos of all the existing Social Security Schemes may be summaries as following of three fold:

**(a) Compensation:** - compensation is the foremost objective of social security and it goes to income security and is based upon the idea that during spells of risks, the individual and his family should not be subjected to a double calamity involving both destitution and loss of health, limb, life or work.

**(b) Restoration:** - Restoration implies cure of the sick and the invalid, and includes re-employment and rehabilitation and is in some ways an extension of the earlier, of objective and concept is based on the functions of social security.

**(c) Prevention:** - Prevention is designed to avoid the loss of productive capacity due to sickness, unemployment or invalidity and to render the available resources, which are used up by avoidable disease and idleness and thus increase the material, intellectual and moral well being of the community.

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<sup>7</sup> Introduction of Social Security, ILO Publication 1984, P-123

<sup>8</sup> Giri VV, Labour Problems in Indian Industry, Himalaya Publishing House Bombay, P-248

The fundamental aim of social security is to give working class and their families the confidence that their level of living and quality of life will not be eroded by any social or economical eventuality. This involves not just meeting needs as and when they arise but also preventing risks from arising in the first place and helping individuals and families to make the best possible adjustment when faced with disabilities and disadvantages, which have not been, or could not be, prevented.

Lack of Social Security impedes production and prevents formation of a stable and efficient labour force. The Social Security measures should not be considered a burden but a wise investment, which pays rich dividends in long term. According to the Report of the National Commission on Labour 1969 “ Social security has become a fact of life and these measures have introduced an element of stability and protection in the midst of the stresses and strains of modern life. It is a major aspect of public policy today and the extent of its prevalence is a measure of the progress made by a country towards the idea of a welfare state. It is an incentive for development, subsisting as it does hope from fear in the progress improving the efficiency of the working force.

Different Political leaders, Social reformers, and economists have emphasized the significance of Social Security in different ways. Today the Philosophy of the concept is universally acknowledged as it has been accepted in principle that the Social Security is the aim of all Social welfare activities of all countries, following different ideologies, different social, and political structures and different economic policies. Ways adopted by the various countries may be different but the purpose is the same everywhere. The Social Security has united them

In the Ancient and Medieval Indian history periods the social security was present in the forms of charity, donation, and humanitarian

aids. These beliefs changed with time and the concept of the social security transformed from the duty of the King or charity or donations or humanitarian aid to the duty of the State to ensure protection of the society. In this country a number of Social Security legislations have been enacted to protect the interest of the unprivileged and exploited workers. The Indian Constitution guarantees Social Security under various Articles namely 38, 39 (a), 41, 42, and 43. The earliest of such legislations is the Workmen's Compensation Act, 1923, which ensures payment of compensation in case of a personal injury arising out of and in the course of employment. The Employees State Insurance Act 1948 provides for medical, sickness, dependents, disablement, and maternity benefits. The Employees Provident Fund & Miscellaneous Provisions Act 1952 and The Payment of Gratuity Act 1972 Provides for retirement benefits. The Maternity Benefit Act 1961 provides certain leave and facilities before and after the delivery of the child and benefits for family planning etc. It is desirable to integrate all these approaches for simple, convenient, and effective functions at all levels in this country.

## **1.2 The Scope and Objectives of the study**

The researcher has formulated the following objectives with which the study is to be conducted:

Social Security Schemes in India suffer from certain drawbacks such as uneven scope inadequacy of benefits, duplication and overlapping provisions. There are different administrative authorities for implementation and enforcement. The National Commission on Labour, 1969 and also 2002 recommended the need of Comprehensive Social Security plan in order to overcome the difficulties faced by the workers and for the betterment of the social security schemes. The Study Group



(1957-58) appointed by the Government of India recommended for integration of various social security measures with a unified scheme of administration and contribution, providing for medical care and coverage against sickness, maternity, employment disablement, old age and death.

The main purpose of conducting this study is to highlight the drawbacks with existing Social Security Schemes through empirical study based on questionnaires and formulation of a Model Bill for the Comprehensive Social Security Scheme in India. The proposed Comprehensive Social Security Scheme integrates all existing Social Security Schemes like the Employees Provident Fund Schemes, Gratuity, Employees State Insurance, and Compensations, Maternity benefits. The main idea is to have all the contributions from existing schemes from all employees, employers and financial aid from the Central and State government in one Fund called Centralized Fund under the Comprehensive Social Security Scheme and then proper utilization of the resources under one administrative body. When all functions of existing Social Security Schemes are integrated, it provides the benefits of specialization, effective control, smooth administration and minimum operational costs. Subsequently collection of huge amount of money, which may provides more benefits and amenities with effective and efficient organizational control of fund.

The object of the study is also to formulate a Comprehensive Social Security Scheme for betterment of the workers with minimum procedural hardship. It is strongly believed that the proposed scheme will not only provide all needed benefits to those working in organized sectors and their dependents, but also suitable in the present era of globalization and liberalization in the nation.

### **1.3 Rationale of the study**

The National Commission on Labour was formulated in 1966 to study and suggest removal of the hindrances for worker's development and better administration of the labour schemes. It was brought out that the Social Security legislations in this country suffered from certain drawbacks. The National Commission on Labour 2002 also suggested the integration of the Social Security Measures with a unified scheme of administration, and contributions, providing for medical care and coverage against sickness maternity, employment injury, old age and death to remove all the complexity in the existing schemes. No progress has been made on the subject even after 37 years of the report of the National Commission on Labour, 1969 and the Recommendations of the Study Group 1957-58.

The most of the existing Social Security Schemes are inadequate and unsuitable for the present globalization and liberalization era in this country. Moreover the political leaders lack political will to take appropriate measures in formulating the Comprehensive Social Security Scheme is also one of the reasons. A number of parties ruled the nation but none of them formulated any legislation based on the Recommendations of the Committees or Commissions on the subject. Further the issue could not gather movement due to lack of support and initiative from the leading trade unions in the country.

It is desirable to have such a scheme, which not only provides needed benefits but also simple benefit claim procedure. So it is required to have such a Complete (Comprehensive) Social Security Scheme for the working class in the organized sector in this country. The proposed Comprehensive Social Security Scheme integrates all the existing schemes; the Employees Provident Fund and Miscellaneous Provisions

Act 1952, the workmen's Compensation act, 1923, the Employees State Insurance Act, 1948 the Maternity Benefits Act, 1961, and the Payment of the Gratuity Act, 1972, and thus provides comprehensive benefits to the workers as well as their dependents. The proposed Scheme is beneficial to all the concerned parties because it is a centralized Scheme governed by one administration body resulting in minimizing the operational cost, effective centralized control and enhancement in the quality and quantity of the benefits. The designated Courts under the proposed Scheme may resolve all social security disputes in minimum period and ensure instant enforcement of its order.

Before formulating the proposed scheme, opinions of the employers, employees, office bearer of the Trade Unions, professionals in the related fields and the executives are taken into consideration. These are the agencies affected by progress of the subject matters and their views draw real picture in the industries, and other commercial organizations. According to the need of the workers a Model Bill on the Comprehensive Social Security Scheme is proposed to provide for smooth administrative function. It is believed that proposed scheme will not only fulfill the need of the working class in organized sectors, but also suitable in the Indian scenario.

## **1.4 Hypothesis Formulated**

Hypothesis formulated to conduct the study are as follow:

- (a) There are various legislations on the Social Security Schemes in India, but the ground realities are very different. Workers are not even provided with the bare minimum statutory requirements in private sectors.

(b) There is duplication, overlapping, and inadequacy of the services and amenities provided under Social Security Schemes under various statutory provisions in the country.

(c) There exists a lack of awareness among workers about the amenities, facilities, and services for which they are entitled to, under various enactments in the country. It defeats the main purpose of collective bargaining principle

(d) There is no proper and effective coordination and synchronization between the various enforcement machineries on the subject.

(e) The benefits claim procedures under the existing Social Security Schemes are complex and prolonged, which results in delay and denial of justice to the labourers.

(f) Various administrative authorities for execution and governance of the Social Security Schemes in the country, but in reality they do not possess the power to have enough effective enforcement of their own orders.

(g). The Trade Unions are not so economically sound to resist united against the lukewarm attitude of their employers towards Social Security Schemes.

(h). Lack of confidence in the Labour Inspection and Enforcement Machineries under the Social Security Schemes, created a wide gap between the workers and the management.

(i). Majority of the Social Security Schemes is applicable with Pay Scale limit and total number of persons employed in each of the

establishments. So a large chunk of population is denied the desirable benefits. It is needed that all the services and amenities should be provided to all the workers irrespective of their status and pay scale and without any limit of number of employees in such establishments.

(j). The employers consider the benefits under the existing Social Security Schemes as unnecessary financial burden. So they always try to avoid implementation of the social security measures in their organizations.

(k). In the era of globalization and liberalization, it is desirable to integrate revamp, and restructure the entire social security schemes for the betterment of workers, employers and the government as well. It remains as undeniable fact that the present law and machinery do not have adequate schemes which provide an overall kind of protection to workers in organized sectors, with effective organizational control, simple procedure for claims and settlement machinery in case of dispute, which are required in the era of globalization

## **1.5 Research Methodology**

As the problem of research is a socio-economic, and legal, both doctrinal and non-doctrinal methods have been adopted. As a part of the Doctrinal study the researcher has evaluated both primary and secondary sources of information. The Primary source of information includes in-depth study of the national enactments like, The Workmen's Compensation Act 1923, The Employees State Insurance Act 1948, The Provident Fund and Miscellaneous Provision Act 1952, The Maternity Benefit Act 1961, The Payment of Gratuity Act 1972, The Indian Labour Year Book 2002-03, and related Constitutional provisions on social security. The study included various Reports like the Report of the

National Commission on Labour 1969 and 2002 and the Reports of the Study Group 1957-58. The International instruments taken for the study include the International Covenant on Economic, Social and Cultural Rights 1966, Universal Declaration on Human Rights 1948, International Covenant Civil and Political Rights 1966, role of International Labour Organization, International Social Security Association. A comparison by analyzing the social security provisions in countries such as the United States America, United Kingdom, Japan, Australia, Germany, Russia, China and New Zealand, has been done. The Secondary source of information includes the matters on the historical development of the social security during Ancient, Medieval and Modern periods in India and in other countries of world.

Various Web sites, Articles, books, and other relevant publications on the subject were thoroughly analyzed, interpreted and then included in the study. All the information collected through various sources are thoroughly interpreted in order to have clear view of the existing literatures on the social security at domestic as well as at International level.

Gujarat is one of the industrially dominated States in India. The Non-Doctrinal Study conducted and focused on Vadodara, which is one of the prime industrial districts. The researcher has conducted an empirical study by examining the opinion based on questionnaires from various employers, employees, and representatives of Trade Unions, executives, and the professionals involved and dealing with the existing social security aspects in the organized sector. The Study was conducted in the major industrial areas in Vadodara District.

The hypothesis thus formulated was testified during the process of conducting the interview schedule. The respondents were explained about

the purpose of the study and contents of the questionnaires, before conducting the interview schedule. It is also proposed to include the opinions of the Main National Trade Unions like, All India Trade Union Congress, Indian National Trade Union Congress, Hind Mazdoor Sangh, Textile Labour Association Ahmedabad, Non Governmental Organizations and other agencies and Societies in the related fields. The opinions were collected through post, mails and Internet.

## **1.6 Research Design**

The research is designed to include data collected from the related and effected people through questionnaires and also relevant information on social security from various Web Sites, Reports, and research articles. The following Research Design techniques are adopted for the research:

### **1.6.1 Data Collection (Sample Design)**

The district of Vadodara (Gujarat) is on the Golden Corridor between Palanpur and Valsad. It is a significant industrial place having chemical, electronic, mechanical production units. The stratified sampling technique for employees, employers, executives, officers of Trade Unions, professional, was utilized for conducting empirical study in the district of Vadodara. Beyond the district of Vadodara, some professionals and officials form the related field, were also consulted with.

A Sample size of 400 consists of, working 100 Employees (including 25 female workers), 50 officers of the trade unions, 50 Employers, 100 Executives and 100 professionals in the related field are selected from the industrial dominated towns in organized sector in district of Vadodara. The selected sample size of 100 workers is designed to include the skilled labour, semi-skilled, and unskilled labourers employed

in the industries and other commercial organizations. The 100 professionals include the labour officers, Provident Fund Commissioners, Directors in the Employees State Insurance Corporation, the Workmen's Compensation Commissioners, legal practioners in labour fields, Faculty members of the labour related colleges/universities in and beyond the District of Vadodara and those who are in the head offices of the social security schemes in Delhi area.

The opinions from the leading Institutions like VV Giri National Labour Institute, Noida UP, Labour Bureau of Labour at Shimla, and Chandigrah, Social Security branch of the International Labour Organization, International Social Security Association, Central Provident Fund Commissioner, Central Labour Commissioner, Employees State Insurance Corporation Directors of the Government of India and other agencies in the social security field have also been included in the study. The sample size of the 100 executives include the managers, officers and other supervisor staff for the implementation of the social security schemes in the industries and other commercial organizations.

Care has been taken to include establishments of different size nature, from the public and private institutions. The study is designed not only to provide primary information with due accuracy, but also to represent the view of majority of workers.

The researcher has visited the big and small industrial organization in person Vadodara district. To carry on his study in all 370 interviews that were completed successfully, the respondents with different age, sex, social, economic and educational backgrounds were contacted for opinion survey based on questionnaires. The following table shows the respondents proposed for the interview and the representative sample of the interview which researcher could complete successfully.



Sl No.	Respondents	<u>Interviews</u>	
		Proposed to conduct	Successfully completed
1.	Employees	100(25 Female)	95 (20 Female)
2.	Employers	50	45
3.	Executives	100	95
4.	Officers of TU	50	50
5.	Professionals	100	95
	Total No.	400	370

### 1.6.2 Interview Pattern

The structured interview technique was used to ascertain the opinion from the employees, employers, executives, office bearers of a Trade Union, and the professionals in the related fields to study and analyses the different benefits provided under the existing social security schemes and the proposed Comprehensive Social Security Scheme. Different questionnaires for employees, employers, executives, office bearers of a Trade Union and professionals were prepared for conducting the interviews. These schedules consists of pro and cons of various questions relating to the benefits claim procedures under the existing Social Security Scheme in India and the proposed Comprehensive Social Security Scheme.

The questionnaires were prepared after consulting professionals in the social security, guide and other reports on the subject matters. The final shape of the questionnaires was decided after through testing of the relevant matters. Before commencing the interviews schedule the respondents were briefly explained about the purpose of the study and the

contents of the questionnaires. The opinions of the respondents were recorded in their presence with authentication from them at the end of questionnaires. The interview schedule was conducted in the industrial significant towns and sub towns in and around Vadodara City like Makarpura, Waghodia, Savli, and Notified Industrial Areas in Gorwa, Gotri, Channi, Nandeseri, Por, Halol, Padra, Maneja, Jambusar, Ranoli, Asoj, and Manjusar which fall within the district of Vadodara state of Gujarat. The interview schedule was conducted during working hours between 10 am to 5 pm. The hypothesis formulated was testified during the process of the conducting interview schedule.

Though the scope of the study is confined to Vadodara district, the researcher was of the opinion to collect the relevant information on Social Security Schemes from related institutions and persons beyond Vadodara District. In the process the professionals like Law teachers/Academicians, Legal Practitioner, Provident Fund Commissioners, Employees State Insurance Corporation Directors, Workmen Compensation Commissioners, Members of the VV Giri National Labour Institute of India, ILO, Labour Bureau, International Social Security Association were also consulted with. These opinions were collected through Internet as well as by the personal contact, wherever possible. A few of the employers and employees from the private as well as public sectors were found to be lacking in the expected cooperation.

Subsequently another plan was mooted to collect the opinion of trade union members by dispatching questionnaires to different national level trade unions like All India Trade Union Congress, Indian National Trade Union Congress, Hind Mazdoor Sangh, and Textile Labour Associations, Ahmedabad. Steps have been taken to seek the views of Non Governmental Organizations and Social Security Societies through postal means. The observations recorded during the empirical study were duly

analyzed and interpreted to consider for formulation of the Model Bill on the Comprehensive Social Security Scheme that suits the present situation in India.

### **1.6.3 Interpretation of Collected Data**

Data collected from the employers, employees, executives, officers of trade unions and professionals in the related fields is interpreted and analyzed under different heads according to the subject matter. These include various aspects like benefits, awareness, claim procedure, practical viability of the existing Social Security Schemes, and the proposed Comprehensive Social Security Scheme. All the data so collected through empirical study based on the specified questionnaires are tabulated along with histograms on the relevant subject matter. Further, the data are also analyzed in percentage of the opinions from the each category of respondents.

## **1.7 Major Concepts and Variables:**

### **17.1 Major Concepts**

The researcher includes the following major concepts relevant with the subject matters.

- **"Appropriate government"** means, in respect of establishments under the control of the Central Government or a railway administration or a major port or a mine or oilfield, the Central Government, and in all other cases, the State Government.
- **"Contribution"** means the sum of money payable under the Social Security Schemes by the principal employer in respect of an

employee and includes any amount payable by or on behalf of the employee in accordance with the provisions of these Schemes.

- **“Dependant”** means any of the following relatives of a deceased insured person, namely,--
  - (a) a widow, a minor legitimate or adopted son, an unmarried legitimate or adopted daughter;
  - (aa) a widowed mother;
  - (b) if wholly dependent on the earnings of the insured person at the time of his death, a legitimate or adopted son or daughter who has attained the age of eighteen years and is infirm;
  - (c) if wholly or in part dependent on the earnings of the insured person at the time of his death,--
    - (i) a parent other than a widowed mother,
    - (ii) a minor illegitimate son, an unmarried illegitimate daughter or a daughter legitimate or adopted or illegitimate if married and a minor or if widowed and a minor,
    - (iii) a minor brother or an unmarried sister or a widowed sister if a minor,
    - (iv) a widowed daughter-in-law,
    - (v) a minor child of a pre-deceased son,
    - (vi) a minor child of a pre-deceased daughter where no parent of the child is alive, or
    - (vii) a paternal grandparent if no parent of the insured person is alive.
- **“Employment injury”** means a personal injury to an employee caused by accident or an occupational disease arising out of and in the course of his employment, being an insurable employment, whether the accident occurs or the occupational disease is contracted within or outside the territorial limits of India.

- **"Employee"** means any person employed for wages in or in connection with the work of a factory or establishment to which this Act applies and—

(a) who is directly employed by the principal employer on any work of, or incidental or preliminary to or connected with the work of, the factory or establishment whether such work is done by the employee in the factory or establishment or elsewhere; or

(b) who is employed by or through an immediate employer on the premises of the factory or establishment or under the supervision of the principal employer or his agent on work which is ordinarily part of the work of the factory or establishment or which is preliminary to the work carried on in or incidental to the purpose of the factory or establishment; or

(c) whose services are temporarily lent or let on hire to the principal employer by the person with whom the person whose services are so lent or let on hire has entered into a contract of service;

and includes any person employed for wages on any work connected with the administration of the factory or establishment or any part, department or branch thereof with the purchase of raw materials for, or the distribution or sale of the products of, the factory or establishment or any person engaged as an apprentice, not being an apprentice engaged under the Apprentices Act, 1961, or under the standing orders of the establishment; but does not include—

(i) any member of the Indian naval, military or air forces;  
or

(ii) any person so employed whose wages (excluding remuneration for overtime work) exceed such wages as may be prescribed by the Central Government a month:

PROVIDED that an employee whose wages (excluding remuneration for overtime work) exceed such wages as may be prescribed by the Central Government a month at any time after (and not before) the beginning of the contribution period, shall continue to be an employee until the end of that period.

- **"Family"** means all or any of the following relatives of an insured person, namely,--
  - (a) a spouse;
  - (b) a minor legitimate or adopted child dependent upon the insured person;
  - (c) a child who is wholly dependent on the earnings of the insured person and who is--
    - (i) receiving education, till he or she attains the age of twenty-one years,
    - (ii) an unmarried daughter;
  - (d) a child who is infirm by reason of any physical or mental abnormality or injury and is wholly dependent on the earnings of the insured person, so long as the infirmity continues;
  - (e) dependent parents.
- **"Factory"** means any premises including the precincts thereof--
  - (a) whereon ten or more persons are employed or were employed for wages on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on, or

(b) whereon twenty or more persons are employed or were employed for wages on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power or is ordinarily so carried on. But does not include a mine subject to the operation of the Mines Act, 1952 or a railway running shed;

- **"Miscarriage"** means expulsion of the contents of a pregnant uterus at any period prior to or during the twenty-sixth week of pregnancy but does not include any mis-carriage, the causing of which is punishable under the Indian Penal Code.
- **"Seasonal factory"** means a factory which is exclusively engaged in one or more of the following manufacturing processes, namely, cotton ginning, cotton or jute pressing, decortications of groundnuts, the manufacture of coffee, indigo, lac, rubber, sugar (including gur) or tea or any manufacturing process which is incidental to or connected with any of the aforesaid processes and includes a factory which is engaged for a period not exceeding seven months in a year—
  - (a) in any process of blending, packing or repacking of tea or coffee; or
  - (b) in such other manufacturing process as the Central Government may, by notification in the Official Gazette, specify.
- **"Sickness"** means a condition, which requires medical treatment and attendance and necessitates abstention from work on medical grounds.

- **"Temporary disablement"** means a condition resulting from an employment injury, which requires medical treatment and renders an employee, as a result of such injury, temporarily incapable of doing the work, which he was doing prior to or at the time of the injury.
  
- **"Total Disablement"** means such disablement whether of a temporary or permanent nature, as incapacitates a workman for all work which he was capable of performing at the time of the accident resulting in such disablement.
  
- **"Wages"** means all remuneration paid or payable, in cash to an employee, if the terms of the contract of employment, express or implied, were fulfilled and includes any payment to an employee in respect of any period of authorized leave, lock-out, strike which is not illegal or lay-off and other additional remuneration, if any, paid at intervals not exceeding two months, but does not include—
  - (a) any contribution paid by the employer to any pension fund or provident fund, or under this Act;
  - (b) any traveling allowance or the value of any traveling concession;
  - (c) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or
  - (d) any gratuity payable on discharge.



### **1.7.2 Variables**

The study based on questionnaires conducted was limited only to the major industrial towns of the District of Vadodara (Gujarat). Selected samples of employees, employers, executive, members of trade unions and professionals in related fields, in the organized sector have been consulted with, in the present study. The opinions of the professionals in the related fields have been collected and gathered through various means like Internet, postal correspondence, and personal contact, wherever possible. The workers, employers, professionals and the executives with different human psychology, with different gender belong to different social, economical and educational background, have put forth different interpretations and skills and thereby formed different data. Hence, the data so collected vary from person to person reflected with their particular human psychology. Majority of the working labourers were not much educated to understand the importance of the subject matter, though they were explained about the subject matter and its importance. Sample size of working employees is selected, in such way as to provide equal representation to all classes viz, skilled, semi skilled, and unskilled at National level.

The opinions of various trade unions like All India Trade Union Congress, Indian National Trade Union Congress, Hind Mazdoor Sangh, and Textile Labour Associations, Ahemdabad were sought through postal correspondence and Internet communication.

## **1.8 Review of Literature**

To conduct the study the researcher relies on various relevant books, and Reports on the subject. The researcher, further, consulted and gathered relevant material from research articles, published papers

collected from various Journals of National and International repute. Similar material has been collected from the related Web sites. These provided valuable information with due accuracy. Highlights of some of the literature on the subject are given below.

Firstly the study include a book titled "Aspect of labour welfare and social security in India" written by Mr. AM Sharma <sup>9</sup>. It contains the Indian legislative on the subject. The book provides information on historical development of the social security in our country as well as at the International level. It also contains with latest information on the legislations on social security in our country with leading cases. Though the Book contained significant information on the subject, but it has some limitations. The book does not provide the role of the International Labour Organization for development and promotion of the social security, Recommendations of the National Commission Labour, 1969, and 2002 on the subject, historical development of the subject in ancient, medieval and modern India. Actually it contained only the brief subject matter.

The study included another book titled "Social Security Legislations for labour in India" written by Dr NH Gupta <sup>10</sup>. This book provides information on statutory provisions, position at International level. The book is very useful in providing information on legislative provisions in our country, and development of the subject by the ILO, ISSA, and other countries. The book does not provide the historical development of the subject in our country. It does not posses adequate data on the ILO's effect on India. The relevant statutes/legislations at the national level as well as the international instruments are part of the study.

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<sup>9</sup> 2003, Himalaya Publishing House New Delhi

<sup>10</sup> 1986 Deep & Deep Publication New Delhi

## 1.9 The Scheme of the study

Keeping in view the objective of the study as mentioned above the researcher has formulated chapters as under:

The study has been divided into six chapters. The **First Chapter** includes the objective of the study, Scope of the Study and the research Methodology adopted and the research design that includes details of the procedure followed for the collection of data's from all the relevant sources on the subject matters. The scope of the study consists of the enrichment of workers with various services and amenities with minimum operational costs, one administration body with centralized fund. The hypothesis formulated was testified during the process of the conducting interview schedule. The Hypothesis is formulated based on the study of various Reports of leading Commissions and other study materials. The opinion of the professionals in the related fields was also taken into consideration for the formulation of the hypothesis. This is to be testified by the empirical study based on the questionnaires from the selected samples in the social security fields.

Basically the study conveys the message of the Comprehensive Social Security Scheme to every body either in private or public sectors, likely to be benefited. The National Commission on Labour recommended the concept of the Comprehensive Social Security Scheme in 1969, & 2002, but this has not yet been formulated in any statutory Bill, even after 35 years have lapsed. The concept of the Comprehensive Social Security is very useful for the employers, employees, executives and the government. It will provide a large number of benefits to the effected people in the nation.

The **Second Chapter** deals with the historical development of the concept of Social Security in India as well as in other countries like USA, UK, Japan, Australia Germany, China, New Zealand, and Sweden. This chapter highlights the evolution of the social security measures during the historical periods of Ancient, Medieval, and Modern India. The chapter also highlights how the development of the social security took place gradually over the years through by the International Social Security Association, the International Labour Organization, the National Commission Labour 1969 and 2002, the Study Group Report, the Report of William Beveridge Plan, and Prof Adarkar Commission Report. Some of the leading nations like USA, UK, Japan, Australia Germany, China, New Zealand, and Sweden have contributed significantly in the development of the social security subject.

The **Third Chapter** provides a detailed picture of the existing Statutory Provisions in India and at the international level: (a) The Statutory Protection of the Social Security Schemes extended in India viz Articles –21,39,39A 41, 42, 43, 45, 46, and 47 (b) The Workmen's Compensation Act 1923 (c) The Employees State Insurance Act, 1948 (d) The Employees Provident Fund & **Miscellaneous** Provisions Act, 1952 (e) The Maternity Benefits Act, 1961 (f) The Payment of the Gratuity Act, 1972. The National Commission on Labour 1969 that recommended the need of the Comprehensive Social Security Scheme in India to eliminate the drawbacks in the existing Social Security Scheme. The relevant statutes in other countries like USA, UK, Japan, Australia Germany, China, New Zealand, and Sweden have been adequately dealt with in this chapter. International Instruments of this subject includes the ICESCR 1966 UDHR, 1948, ICCPR, 1966 on the Human Rights relating to the Social Security.

This chapter provided the details on significant role of the International Labour Organization, in promoting and propagating the Social Security Scheme at the international level. India is a founder member of this institution. This country has been ratifying most of the conventions of the ILO on the subject matters, since its foundation.

The **Fourth Chapter** pertains to the role of the Social Security Enforcement Machineries like ESI Court, Workmen's Compensation commissioner, Provident Fund Commissioner, and Controlling Authorities, and significant role-played by these in propagating and protecting the interest of the workers on the Social Security Schemes have been covered.

The **Fifth Chapter** deals with the role of the Judiciary in the promotion and development of the Social Security Schemes. The significance of the Public Interest Litigation in protecting and promoting underprivileged, illiterate, and exploited workers has been covered. This chapter also discusses the role of the Supreme Court, and High Courts, in protecting the interest of the workers. This aspect has been dealt with the help of leading decisions on the subject.

The **Sixth Chapter** consists of the practical aspect of the Social Security Scheme in the State and the Central government organizations and private industrial organizations. Five questionnaires (employees, employers, trade unions, executives and professionals in related fields) are prepared to find out the view of labourers, employers and executives in organized sector in the District of Vadodara (Gujarat). The hypothesis formulated was testified during the process of the conducting interview schedule. The responses are evaluated based on the feedback received from the workers, employers, professionals in the fields of social security and also from the, officers of trade unions, and various related executives.

These depict a real picture of the Social Security Scheme in the practical aspect.

The **Seventh Chapter** consists of the major findings, conclusions and the suggestions. A Model Bill on the Comprehensive Social Security Scheme is formulated after taking into consideration the opinions from various agencies like employees, employers, member of trade unions, executives, and professionals in the related fields, which will help to eliminate all drawbacks of the present Social Security Scheme.

### **1.10 Utility of the study**

The Comprehensive Social Security Scheme proposed to in the study intends provide the workers in the public as well as private sectors. It has numerous benefit, simple procedure for claims, adequate monetary benefit, speedy and economical settlement of disputes. The Scheme will certainly boost the morale of the workers. It eliminates all hindrances faced by the workers for their retirement benefits, employment injuries and other employment related difficulties. The scheme intends to develop stable and reliable work force, which can be available only when the workers feel satisfied regarding their medical benefits, retirements, injuries and other family related benefits. This can be achieved when all the schemes pertaining to Social Security are simplified, integrated and with its effective utilization under united controlling organization. This study on the comprehensive social Security Scheme firstly, diagnoses the difficulties faced by workers and hindrances in the existing social security system and thereby appropriate treatment for problem is concluded in form of a Model Bill on the Comprehensive Social Security Scheme suitable in India.

The new concept will provide the following benefits to the employers, employees, and governmental organizations in any organized sectors:

- Minimum operational costs
- Uniform procedure for claims of benefits.
- Economical systems for claims
- Centralization of all funds.
- Minimum administrative complications.
- More benefits and services.
- Speedy trial of cases with limitation of trial.
- Independent machinery for the implementation and enforcement of claims.
- No overlapping of benefits.
- No duplication of benefits.
- Harmonious relations between employees and employers.
- Benefits of social security to large number of employees.
- Protection to workmen from financial hardship regarding claim of benefits.
- Synchronization of efforts of enforcement machineries.
- Desirable medical benefits to the dependents of the employees at any place in India.