



## SOCIAL SECURITY

### —THE BEDROCK OF A NATION'S ECONOMY

— R. Natrajan

**T**he year was 1945. The Second World War was over. Germany had been divided into four pieces. The country's economy was a war-ravaged one. Economic conditions in the Western occupation zones (West Germany) in 1945 were worse than in the Soviet zone (East Zone). Germany's financial system had collapsed. Cigarettes were the means of exchange and banks were closed.

Transportation had virtually ceased, railroads had stopped, the Rhine was not navigable, bridges destroyed, ports were closed, the autobahns (expressways) were impassable, canals were blocked. Industrial cities were badly damaged by Allied bombing and wartime fighting. 20% of German housing had been destroyed. Between 50-95% of major cities had been destroyed, cities like Berlin, Hamburg, Dresden, Munich. 20% of all German industry had been destroyed. Germany's agricultural breadbasket in the East was lost to Soviet occupation.

In these circumstances, it seemed unlikely that Germany, either East or West, would ever recover as a major industrial power. Yet by 1965, the Federal Republic of Germany (West Germany) had emerged as the most powerful industrial nation in Western Europe. In the year 1971, the German DM attained full value.

The year was 1947. India had attained independence through peaceful means. There was peaceful transition of power

between the colonialists and the Indians. But, even after 53 years were over, our monetary unit, the rupee, is yet to attain full value.

The social scientists who analysed the West German economic miracle of the Sixties, had come to the conclusion that, although the Currency Reform of 1948 had been a starting point, the economic development of that nation became a reality mainly due to the successful implementation of the social security measures. Germany, which is called as the "cradle of social security", had proved the vital link between the economic development of a nation and the social security system enforced in that country.

The year was 1941. The United Kingdom was in the thick of the Second World War. The trend of the war had not been in favour of Britain at that time. Yet, the British Prime Minister Sir Winston Churchill had the vision to summon Sir William Beveridge to prepare a comprehensive report on how Britain should be rebuilt after World War II. He could, even during the moments of war, foresee the importance of the essential link between the social security scheme and the nation's development.

Coalition Government minister Ernest Bevin (a future Foreign Secretary in the 1945 Labour Government) addressed the Rotary Club whose audience included mainly businessmen. Bevin addressed himself to the causes of War and blamed "the failure to provide an economic

basis for the development of resources" as one of the basic causes. Bevin borrowed from Arthur Sheldon's famous motto by declaring, "If profit can be the only motive, the natural corollary is economic disorder, and economic disorder will bring you back to the same position you are in now, *ever recurring*, and future generations will again pay, in the same form or another, the bitter price we are paying now..."

A country's social security system aims at providing the much-needed economic basis so that the country is able to develop its resources. Social security provided to the working population is the important and basic structure on which alone can the edifice of a nation's economy be built solidly.

Sir William Beveridge, whose ideas influenced David Lloyd George and led to the passing of the 1911 National Insurance Act in England and who worked as the Director of the London School of Economics and Political Science in the 1920s, identified the link between the social security and the economic development of a nation. The British government's watershed publication in December 1942 better known as Beveridge Report is rightly hailed as the "monumental document which revolutionized the trend of thought on social security". "*Willing participation of labour can be obtained only through social security*", declared Sir Beveridge. And *the participation of labour with willingness is essential in the*





### *making of a nation.*

The impetus behind Beveridge's thinking was social justice, and the creation of an ideal new society after the war. He believed that the discovery of objective socio-economic laws could solve the problems of society. It is the realization of these facts which led the Constitution makers of our nation to incorporate Art.41 in the Constitution to provide social security to the people of India.

There cannot be plenty among poverty. There cannot be a few rich among a multitude of poor. Such a situation would not lead to a peaceful atmosphere in a society. That was why social security measures had been introduced. The Charter of the International Labour Organisation had declared in the year 1919 itself that **"the peace and harmony of the world are imperiled"** when the "conditions of labour exist involving such injustice, hardship and privation of large numbers of people (so) as to produce unrest". The object of the League of Nations, then, was **"the establishment of Universal Peace"** and **"such a peace can be established only if it is based upon social justice"**. The Charter of the International Labour Organisation had been prepared only in order to attain the above-mentioned objective of the League of Nations.

Now, in the context of globalisation, it is essential for everyone around to improve and give more thrust to the infrastructure of the "social security measures of every nation. Whatever benefits available in the developed countries must be made available to the working population in India too.

**Globalisation of social security benefits** is not only necessary but must be seen as a natural corollary of globalization, before embarking on globalisation formula in other spheres.

No country can be impervious and indifferent to the poor social security picture obtaining in another country. The Charter of the International Labour Organisation had also warned in the year 1919 itself that **"the failure of any nation to adopt human conditions of labour is an obstacle in the way of other nations' desire to improve the conditions in their own countries."** World has been witness to the consequences of such indifference in the form of migrations, legal as well as illegal, and many other problems in the economic front.

Analysts visualise the needs and the miseries of man on one side and the production and wealth on the other side. For the success of any society, it is necessary to maintain a balance between these two aspects. And it can be and has been done only through social security schemes. That is the experience of the nations around the world. **Scandinavian countries provide outstanding testimony to the fact that it is social security measures which make the society far-advanced in civilization.**

Robert Owen, rightly hailed as the Father of Social Security, followed by Jerome Blanqui, Villermé, Daniel Legrand, George Cadbury, Louis Wollowski were not only very rich industrialists but were also great thinkers and who conceived and pioneered many social security benefits for the welfare of the working population. They demonstrated that Social

security and social security alone -provides

- security to the labour,
- stability to the industry,
- strength to the nation and
- civilized status to the society.

The World Bank's report in 1994 had identified the existence of the link between the sound social security system of a country and its ability to compete effectively in the world market. It is time Indian policy makers, industrialists and informed citizens evinced more interest in this arena and come forward to contribute their mite to ensure better functioning of the Employees State Insurance Scheme which has the potential to transform the entire nation into a mighty and civilized one.

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## LETTERS TO THE EDITOR

*"The new layout, format, content and the presentation are really superb. The present form of E.S.I. Samachar, the quality of printing speaks volumes for the sincere efforts and dedication. I hope in the coming months, the e-version of the samachar will be available on our official website".*

– Sh. A. Chockalingam, Regional Director, Ahmedabad.

*We are happy to inform that the e-version of ESI Samachar is now available on ESIC's website. [www.esic.nic.in](http://www.esic.nic.in)*





## When the State did not provide Security-Net...

– R. Natarajan

**B**elieve it or not! Exactly 200 years ago, a factory in Britain metamorphosed into a tourist spot “attracting both the rich and famous as well as thousands of curious sightseers every year”. Reason? An employer who acquired a factory in the year 1799, paid fair wages to the employees, employed no child under ten, arranged for free medical services, built workers' housing at moderate rents, established schools for children and adults and provided recreational facilities. Soon, it became famous throughout Britain and was considered as “a veritable workers' paradise.”

And, exactly 100 years ago, in the year 1906, there was another employer who deducted a portion of wages of his employees and paid matching contributions and paid the accumulated amount at the time of retirement. His idea was the forerunner of the modern-day Provident Fund and Pension. Earlier, for the first time in history, he had introduced 5½ day working week declaring Saturday afternoon as a paid holiday, besides making his company famous for various advanced working conditions and social benefits for its workforce.

The former was Robert Owen of Wales, who combined business acumen with humanitarian concern while insisting on discipline and good conduct from his employees. The latter was George Cadbury. There were Jerome Blanqui (1838) and Daniel Legrand (1847) of France. Such legends were many. Their attempts to provide Security-Net to their employees were individual initiatives. States took much longer time to provide, by law, a comprehensive State-administered Security-Net.

But, the interim period saw heart-rending incidents in the industrial arena all over the world. No compensation was paid to the employees for the injury sustained by them during the course of employment except when the accidents had occurred due to the carelessness on the part of the employer. The general tendency of the employers was to deny their role and responsibility in all the accident cases. Whenever a worker had sustained injury, there was no option for him to receive compensation from his employer except to file a tort lawsuit and prove in court that his injury was the direct result of his employer's negligence. This had resulted in embittered relationship between him and his employer. Consequently, he had to seek alternate employment somewhere else besides pursuing the court case filed by him against his erstwhile employer.

**E**nglish common law courts had established – rules under which a worker might sue an employer for compensation. “These principles differed from those governing non-contractual relations, being grounded on the premise that employer liability was based on an employer's promise, either express or implied, to compensate injured workers. Employers could defeat most claims by relying on the following three common law defences:-

1. Contributory negligence which ruled out any compensation if the worker contributed, however slightly, to the accident.
2. Assumption-of-risk which, in accordance with a general belief that courts should not be involved in voluntary

agreements, assumed that workers willingly accepted the possibility of injury.

3. Common employment which absolved employers from injuries caused through the error or omission of fellow-workers ‘in common employment’.

Commoners in England chose to sit and suffer injustice in silence than to stand up and fight against in the costly courts. The money power of the employers and the cleverness of the dishonest lawyers worked against them. As a result, cases were decided not on facts. The employers' lawyers demonstrated their cleverness by resorting to all sorts of tricks to cheat the courts to get judgments in their favour and thereby deny legitimate benefits to the workers who sustained employment injury.

### Employee Vs. Employer

The following instance would prove the extent to which the employers and their clever lawyers had colluded together to deprive an innocent and suffering workman of his dues.

**A**n employee of a railroad company had sustained injury during the course of employment. He was denied compensation by the employer-company. He approached the court seeking remedy. His case was that the accident had resulted in his becoming a victim of neurasthenia or nervous prostration. The evidence produced by him showed that because of that problem, his mental and physical health had deteriorated rapidly. It was also proved during the cross-examination of an expert doctor that the workman was suffering





from neurasthenia. The expert witness informed the Court that the workman suffered no pain when pricked with a pin on top of the head and that was a sure-sign of his suffering from neurasthenia.

The lawyer for the defendant-company of the employer began his argument. He was "an ex-judge, somewhat advanced in years and exceedingly resourceful". Incidentally, "he was as bereft of hair as the oft-cited billiard ball. When it came time to argue the case to the jury, he proceeded to expound the facts with clearness and vigour for a considerable length of time and finally approached the subject of neurasthenia."

He paid his respects to the learned doctor who was called in as an expert witness. He then expressed his surprise and astonishment at the conclusion arrived at during the examination that "one who did not experience pain by the prick of a pin on the top of the head was a neurasthenic and rapidly progressing to complete mental decline." He, then, informed the jury that he was under the impression that he was a man of reasonable physical vigour and had always supposed that he was still possessed of his normal mental faculties. But, he became afraid that he discovered that he himself was a hopeless neurasthenic as per the evidence given by the expert doctor. If he was a patient suffering from neurasthenia, he had no business trying lawsuits, but "should be preparing rapidly to meet his Maker", he added.

"Thereupon he turned back the lapel of his coat and extracted good-sized needles, which he promptly stuck in the top of his head. He kept this up until he had some ten or twelve needles sticking in the top of his bald head and looked like an animated pin cushion". He finished his argument. Every one was stunned.

The verdict returned was "*in favour of the defendant*", i.e., the employer.

But what had happened was that the lawyer had got a portion of his scalp injected with cocaine with the help of a physician to avoid feeling pain when sticking the pins on his head. He had thus cheated the Judge, the Jury and the Law with the only aim of denying the legitimate compensation payable to the workman who was actually suffering from neurasthenia as a result of the employment injury sustained by him.

In later years, the lawyer confided to the same judge, Mr. Justice Faville, "that the last needle got out side the area of the cocaine which his physician had hypodermically injected into his scalp just before he began his argument and had almost unmasked the hoax". He had to pretend hard that there was no pain although the last needle gave him very sharp pain.

(Ref: Oxford Book of Legal Anecdotes - Michael Gilbert Oxford University Press Pages 10-11)

**T**here began another era when private insurance companies were brought into picture to bear the burden of compensation payable to the workmen. Experiments are still on. The employers are asked "to put aside, on their own, the required amount towards providing health insurance or they pay the same amount to the State to pay for care."

But, the experience with the private insurers is that the employers were worried about the cost of high premium. They wondered how they could possibly compete with other companies where workers' compensation was cheaper. They resented workers who took advantage of the system. They resented insurance companies that made generous profits.

The private insurance companies preparing profit and loss accounts were always interested in ensuring more premiums and less compensation. "Frauds on the part of employees were there. But, the Insurance Companies overstated them. While some insurance companies claimed that 33 percent of the workers lied about their injuries, the actual number of fraud cases sent to prosecutors was less than 1 percent. No state agency regularly monitored the claims to see whether insurance payments were received on time or whether injured workers were receiving appropriate medical care."

Systematic disrespect and humiliation of work-injured claimants by insurance company officials were the order of the day. Some Insurance Company officials, however, could not remain silent. "I wouldn't want to be an injured worker in this system, due in huge part to the inherent complexity, subjectivity and inefficiency," said Doug Widtfeldt, Vice President of the Association of California Insurance Companies. "This system chews people up, and I don't like it," said Edward C. Woodward, President of the California Workers' Compensation Institute, the research arm of the insurance industry. (Mary Fricker - StaffWriter of The Press Democrat).

### Employee Vs. Private Insurer

The following instance would prove how in Australia, a private insurance company went out of the way to deny disablement benefits to an employee of a factory, who sustained employment injury.

**O**wing to the injury sustained by him, he had difficulty in moving, bending and even walking. He could not lift any heavy article, nor could he indulge in his hobbies of gardening and tennis. The employee was constructing a house for himself. Before he sustained employment injury, he





did his own brick-laying, concreting and painting around his house. After the accident, he could not do any work either in the factory or in his own house. His employer conceded the fact that the accident had occurred. But, the private insurance company refused to compensate him alleging that he suffered no disability. Ultimately, the employee had been compelled to seek legal remedy. Australian Barrister Mr. Ian Byrne was representing the suffering employee.

But, even before the trial, the insurance company had, as advised by its clever lawyer, engaged a loss-assessor to collect evidence against the employee. The loss-assessor had been ordered by the insurance company "to follow the applicant (employee) secretly, photograph him when he was unaware, and report, with a view to giving evidence at the trial."

In due course the application came on for hearing. Ian Byrne put his client, the injured employee, in the witness box. He told the Court his story of pain and suffering. He demonstrated that he had severe limitation of movement, could not bend or carry weights, and was a completely useless member of the community because of his unfortunate injury.

When the Examination-in-Chief concluded, the Court was convinced of the disability of the employee. At that point, Ian Byrne's opponent, the counsel of the private insurance company, sprang to his feet, enthusiasm gleaming in his eyes, and said "Your Worship! I have here over 1000 feet of film which shows this man bricklaying, lifting weights, concreting, vaulting a fence, working on his own house and even running. I would ask leave of Your Worship to run the film before I begin to cross-examine him."

The prayer was granted. The film was run. It showed the employee running, making a brick wall, carrying wheelbarrow loads

of bricks, picking up slabs of concrete, climbing up and down ladders, digging in the garden and running behind a lawn mower. Further, the film depicted his home and his small truck with his name clearly marked on the door, and also showed him wearing a red cardigan (jacket), which he was wearing while he was in the witness box. After the screening was over, the enthusiastic counsel for the insurance company commenced his cross-examination.

"You saw that film?"

"Yes".

"There is nothing wrong with your back at all, is there?"

"Yes, there is disability", said the employee-applicant. "Everything that I said before is true."

"But, the film proved that you are not suffering from any disability".

"No, that was not me in the picture. That was my brother"

"But", exploded Counsel, "That was your house. Wasn't it?"

"Yeah".

"And the same cardigan you've got on today is the one shown in the film?"

"Yeah", said the applicant, "I lent it to my brother. My brother is very good to me. He does all the work for me, he paints the house, he cements the paths and mows the lawns."

"But", said learned Counsel, "The Court has seen the film and His Worship knows that you are in the film".

"It is not me. It's my brother."

At this point, the lawyer of the injured employee, Ian Byrne, intervened. After obtaining the permission of the Court, he called the brother of the employee to appear before the Court. And when he walked into Court it became obvious to all that he was the identical twin of the applicant.

After a few questions all were convinced that it was he who had been seen in the film doing all the physical acts.

The angry Counsel for the defendant insurance company pleaded permission of the Court to recall the applicant, the injured employee, to examine him further. The employee was recalled. The Counsel of the insurance company said to him, "You have tried to deceive the Court. You and your brother knew very well that he was being photographed"

"Yeah", said the applicant, "we thought it very funny".

*(Ref: Oxford Book of Legal Anecdotes - Michael Gilbert Oxford University Press Pages 48-49)*

**I**t is not a matter to laugh at. That employee was fortunate enough to find the plot against him to be funny. But, not many disabled employees could feel that way. They suffered and suffered. All that, however, changed when nations of the world woke up to the reality. It was mankind which was suffering and the States decided to step in.

In the Indian context, with the arrival of the ESI Act, 1948 on the scene, the working population does not, any more, face any such hostile atmosphere to claim its legitimate benefits. The ESI Scheme provides benefit on evidence. It does not attempt to deny benefit by fabricating evidence. The employers neither conceal accidents nor contest the claims of compensation.

Because, the Act, in fact, provides protective umbrella to the employers while spreading, effectively, the much-needed comprehensive Security Net to the employees. It reduces employer costs; no unbearable and unexpected financial burden on the employers. It provides protection to employees; no long-winding dispute resolutions. The immunity from liability, as provided by the Act, sets the employers free to concentrate on



development. As the State guarantees correct administration of the Social Security Scheme, the employers and the employees contribute without suspicion. The employees claim benefits without feeling patronised. The ESIC, thus, co-ordinates the employers and employees in the fight against the causes as well as the effects of "Want" and "Disease", the two of the five obstacles in the

development of a nation, as identified by Sir William Beveridge.

Civilisation has come a long way. Even the three "Occupational Risks" which were treated as reasons for denial of compensation to the employees under Common Law are covered under the Act. The "employers' liability without fault" in such cases is taken over by the ESI

Corporation. The ESIC extends to the employees not only monetary benefit but also medical care during the period of disability. It converts a "mass into a society" where everyone cares and contributes for the welfare of the others (too). Because, the core element of the ESI Scheme is compassion assured by the State.

*"It is no use trying to be clever  
- we are all clever here.  
Just try to be kind  
- a little kind."*

-Dr. E.J. Foakes Jakson

**ESIC is kind. Kindness in-built.**  
**A State-run Trust. No proprietary interest.**  
**Interests of the employers and the working population are safe**  
**only in the hands of the ESIC.**

↳ Shri R. Natarajan is Joint Director at Hqrs. Office, New Delhi



The mother of a deceased insured person cannot control her emotions, while receiving Dependent's Benefit from Sh. P. Ganpatiswamy, J.D., SRO, Madurai