CHAPTER IV

LEGAL MACHINERY AVAILABLE FOR GIRL CHILD

After the study of the Constitution it is felt by the researcher that the provisions are not sufficient to take care of the girl child labour. The Directives Principles also fail to give special attention to the girl child and it is necessary in the first place to define the term child labour.

4.1 DEFINING CHILD WORK/LABOUR:

While speaking of definition, one should draw a distinction between child work and labour. It is observed that the child work can benefit the child in enhancing his social, physical, mental, and moral development. Such type of child work can be no hurdle in his schooling and leisure time. The activities of child work include helping the parents in their household business after school. Child labour hampers the ‘normal’ development of a child, not only in physical, but also in psychological way. In general child labour includes work done by young children, who have long working hours, no or insufficient access to health and education or lack of ability to attend school and who receive abusive treatment by their employers. Child labour must be looked with dignity they deserve. The work should be combined with respect for the work they do. Child labour/work can be categorized in to three functions according to AntonellaInvernizzi-

- The function of support- The child brings home some money with which she supports the family or can finance her education.
- The function of socialization- The child learns new abilities and learns to appreciate the value of work. Furthermore she learns to appreciate the solidarity with in the family.
- The function of continuation- with the learned abilities the girl child is able to support the family with her earnings and can be autonomous if the parents die.

Surprisingly there is little documentation on girl child labour and particularly on girl child labour as domestic help; which can also be seen as an evidence of the invisibility of her labour though it contributes so widely to the family, community and the society at large. Worldwide domestic work is very often not seen as work. Also if a girl helps her mother in the household, it is mostly unrecognized because house-based work is seen as an unskilled
nature with low status. There is lack of educational or vocational training due to the preference given to the boys, blocks their family to more upwards. Because she lacks education, she has less possibility on the labour market and is only relegated to low paid and unskilled jobs. This vicious cycle can hardly be broken because the exploited young girl becomes the exploited adult woman who often does not see her work as an economic activity but as undervalued.

When we speak of definition of child, one should distinguish between child labour and child work. Child work can be advantageous and can improve a child’s development physically, mentally, spiritually and morally without interfering with the child’s education and play. The activities which the child performs include as extending a helping hand to the parents at home and in family business after the school hours and play. It can be called as child work because no compulsion is involved in performing the work. In contrast to child work, child labour hampers the ‘normal’ development of a child, not only in a physical but also psychological way. In general, child labour includes work done by young children, who have long working hours, no or insufficient access to health and education, or lack of ability to attend school and who receive abusive treatment by their employers. This distinction is necessary because it gives the exact meaning of child. A little bit more focus on child labour can be given which gives positive connotation.

Every work performed by the child cannot be considered as negative for children. The kind of work which is exploitive and infringes the rights of a child only can be objectionable. Where a child who delivers newspaper before school might actually be benefited as he learns how to work, gaining responsibility, and earn a bit of money. But what if the child is not paid? Then he or she is being exploited. As UNICEF’s 1997 State of the World’s Children Report puts it, “Children’s work need to be seen as daily work as a continuous work since it is not destructive or exploitative work. On the contrary it is favourable and advantageous for development of the child without interfering with their study and recreation. Hence it not necessary that all work performed by a child be termed as child labour. Yet it is important to define the ‘child’ by ‘child work’, to decide the minimum age so that a person could be termed as child labour depending upon the type of work he performs.

Conceptually child labour should have a wider construct and the artificial distinction between “child labour” and “child work” should be done away. However, the distinction is essentially misplaced because children play a principle role in the management of national resource in a
variety of ways. Traditional connotation of child labour is that it includes all those who are all prospering and active group of 5 years to 14 years if they work regularly and receive payment for it in cash or kind. Child work is a wider concept and includes child labour as well. It is inclusive of all work, full time or part time work. ILO does not exclude work in house-hold or family farms from child labour.\footnote{Veer Singh, 2002, child labour in India: the genesis &the prognosis, pg. 1}

If one leaves out the economical thought of work; work can have four different aspects: playful, gainful, specific on relations and identity, as well as the double functions of survival and socialization. It is an interaction between the personality and the surrounding of a child and implies an activity which aims for material good, but also for relationships and the honour of oneself and one’s identity. Work can indeed be a very subjective act, depending upon how a child sees her work. UN definition is a bit different from the others.

The definition ranges from normative ones based on specifications of minimum age for employment, to education oriented definition which defines any child out of school as a child labourer or a potential child labourer, to rights oriented definitions which consider any work that deprives children of any part of their fundamental childhood rights as constituting child labour. Depending on which definition is adopted, the resulting estimates of child labour vary greatly.

There is one more distinction one should note when speaking about child labour. Bonded child labour, the work carried out by a child which is the result of the debts of the family, is the worst of all forms of child labour. Parents sell their children, especially girl child, to employers in order to be able to pay back loans they have borrowed. Depending on how big the loan was, these children were made to work for indefinite hours in a day for many years. Working as house servants and in carpet industry is the most common form of bonded labour.\footnote{http://www.wikigender.org.}

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\item \textbf{4.2 DISCRIMINATORY LEGISLATIVE TREATMENT IN RELATION TO DEFINITION OF CHILD AND CHILD LABOUR:}
\item The absence of state control on various labour legislations, child labour in India has received attention from social activist, voluntary organizations and researchers. It is the demand of modern era that the term ‘child’ be defined uniformly for deciding the age of a child. The
different labour acts give no standard definition of the word “child”. Many legislations have been enacted which emphasizes the importance of providing protection and regulating the working conditions of the child labour and yet not confirming a definite definition for standard age. The definition of child thus varies from Act to Act and also from State to State.

The child has two dimensions one is legal and the other is ordinary parlance. It has no fixed and determined definition because it is not a technical term. It is flexible and changes according to the context. Yet a couple of definitions have emerged from the word “child. One is that of relationship in respect to “parentage” and the other in form of “minority”. The study here is concerned with the minority particularly.

Regarding the protection of children, the term ‘child’ has been defined as any person who has not attained the age of majority as prescribed by the laws. The term child means the young under the age of puberty. Hence in this sense the word can be coined as an infant, a young person, youth or one of tender years or a young person of either sex and hence it can be coined that one who exhibits the character of every young person depending on the circumstances.

The minute scrutiny and study of all the Indian Legislations show that there is no uniformity in the definition of ‘child’ as it has been differently defined in different legislations. The Child Marriage Restraint Act, 1929, as amended in 1978, defines ‘child’ as a person who, if a male, is under 21 years of age, and if female is under 18 years of age (section 6). Under The Child Act 1960, a ‘child’ means a person who has reached the age of 18 years (section 20(e)); The Himanchal Pradesh Children Act, 1979 defines the ‘child’ in a similar way as defined under The Children Act, 1960. The Bombay Children Act, 1948 defined ‘child’ as a boy or girl, who has not attained the age of 16 years. The Madhya Pradesh and Uttar Pradesh Child Acts prescribe the upper age limit as 16 years. (section 2(c) of the MP BalAdhiniyam, 1970 and section 2(4) of The UP Children Act, 1949). The Madras Children Act, 1920 provides that the term ‘child’ means a person who has not reached the age of 14 years, while those above 14 years but under 18 years are termed as ‘young person’. The Saurastra Children Act, 1955 and The West Bengal Children Act, 1959 defines a ‘child’ to mean a person who has not attained the age of 18 years.

In India, however the definition of child is different according to the purpose. For instance, under different economic and socio-cultural circumstances, the child is regarded as a commodity, as an insurance, as a source of labour, and as a social burden. The census of
India treats person below the age of 14 as ‘children’. While making use of standard demographic data, social scientists include females in the age group of 15-19 years under the category of the ‘girl child’.

Besides Constitution of India there are certain labour legislations exclusively to deal with children. Under The Apprentices Act, 1951, “a person shall not be qualified to be engaged as an apprentice unless he is not less than 14 years of age”. Similarly, The Mines (Amendment) Act, 1983 provides that no person who has not completed 18 years of age will be permitted to work in any mine or part thereof. Under the Acts, The Minimum Wages Act, 1948, The Factories Act, 1948, The Plantation Act, 1951, The Merchant Shipping Act, 1958, The Motor Transport Workers Act, 1961, The Bidi& Cigar Workers (Conditions of Employment) Act, 1966 ‘Child Labour’ means a child who has not completed 14 years of age. Under Children (Pledging of labour) Act, 1933 child is defined as a person below 15 years of age. The definition of child under various State Shops & Establishment Acts, differ from State to State. In some States a child is a person below 12 years of age, in some States a person of less than 15 years of age.

Therefore there is no uniformity in defining child in various legislative enactments. Although, the Child Labour (Prohibition & Regulation) Act, 1986 made efforts to bring about uniformity, but due to lack of social and political will, the children are still a victim of exploitation and are still forced to work in various hazardous occupations, in spite of number of legislative enactments.

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Because of lack of uniformity in different legislations and prevailing socio-economic conditions of society prohibits the implementation of these legislations in their full spirit and many such laws are honored more in the breach than in observance.

The various Labour Legislations and enactments prohibiting the employment of children in the industrial establishments and factories vary as to the minimum age limit of such children. The Employment of Children Act, 1938 provides that a child who is yet to complete the age of 15 years shall not be allowed or permitted to be employed in any occupation or industry.
However, it is clear that the problem has a close relation to the tender age of the child. The term ‘child labour’ seems to be used as synonym of ‘Employed Child’ or ‘Working Child’. Child work can be compared to any work performed by a child for earning money. It suggests something which is hateful and exploitative. Child labour can be coined as any work done by children that would interfere with their physical development, their opportunities to primary education and their desired recreation. Age is also a criterion for distinguishing child labour from adult labour. The definition as discussed as regarding “child” indicates two major points which converts the word ‘child’ into ‘child labour’. (a) exploitation and (b) age has been used to define child labour. In this context reference should be made of UNICEF giving a comprehensive formulation to define ‘child labour’:

a) Starting full-time work at too early an age.
b) Working too long within or outside of the family so that children are unable to attend school, where it is available or to make the most of school due to fatigue or lack of time.
c) Work resulting in exercise physical, social and psychological strains upon the child as in the case of sexual exploitation and pornography work in sweetshops, as well as such dangerous work as military service and mining.
d) Work and life on the street in unhealthy and dangerous conditions.
e) Inadequate remuneration for working outside of the family as in case of the child workers in carpet weaving.

f) Too much responsibility at too early age as in the domestic situation where children under ten may have to look after young brothers and sisters for a whole day thereby preventing school attendance.
g) Work that does not facilitate the psychological and social developments of the child as in dull and repetitive tasks associated with industries and handicraft.
h) Work that inhibits the child’s self-esteem as in bonded labour and prostitution and in a less extreme case of the negative perception of street children.

While studying the attempt made by UNICEF it seems that effort made is halfhearted and again fails to define ‘child’ uniformly. Also no suggestion have been made as to bring about

4. Desha Sunil, 2002, Legal protection against the exploitation of child labour, pg. 140
uniformity in defining the word ‘child’ instead the formulation is regarding ‘child’ turned into ‘child labour’ and what kind or type of work can be called as work done by a ‘child’ as a ‘child labour’. The UNICEF has only coined as to what are situations and effects of the type of work done by the child labour and how it deprives the child of its social, civil, economic and political rights. Accordingly it is also clear that the dimension of child labour not only deprives the child of getting education but also gradually depressed their productive ability and thereby paves way for a depressed and degraded life.

4.3 STATUTORY PROTECTION:

The first labour law relating to protection of children are there adopted in England at the beginning of the 19th century and the French laws which fixed age 8 as minimum age to work in any industry, which later raised to 12 in 1874 and 13 in 1892. The first legislative enactment protecting the interests of the child labour was Indian Factories Act, 1881 which has certain provisions protecting the interests of children. But these provisions were not adequate. In pre-independent India except the Employment of Children Act, 1938 none other laws have much effect in controlling the problems of child labour.  

The Child Labour (Prohibition & Regulation) Act, 1986 has made effort to amend certain acts to prohibit employment of children below 14 years of age. It also provides for ban on the employment of children below 14 years of age in peculiar occupations and manufacturing processes. The Act has also made effort to make regulatory of work of children in their employment where they are not prohibited to work. The Act also makes provisions relating to the disputes of age of the child. The Act casts duty of occupier in relation to the employment in which children are allowed to work. This Act proposed to enact a comprehensive code and uniform standard of working conditions of child worker.

The Child Labour (Prohibition & Regulation) Act, 1986 prohibits and regulates the child workers only in the organized sector mentioned in the Schedule Part A and Part B. Section 7 of the Act determines that the working hours for a child per day is fixed so to exceed 6 hours,
which includes breaks hours as well as waiting hours. The Act remains silent on the child domestic workers and the girl child labour. Though the age prescribed for the child to work is 14 years according to the Act, yet it does not regulate the child domestic worker. Hence the regulations and conditions of work of children in the Domestic Sector remain untouched and so the provisions relating to hours of work, weekly holidays, health and safety do not make any sense.

The Child Labour Technical Advisory Committee has listed the names of occupations in which the employment of children are strictly prohibited. Inspite of all provisions, it is observed that some of the grave limitations and exposes the double standard morality of the legal efficacy. The Act also contradicts the purpose of the Constitution of India under Article 24. This Article has prohibited employment of children who have not completed 14 years in all factories and mines irrespective of their hazardous nature. And the Act prohibits child labour in a limited list of hazardous occupations.

Though the Act has forbidden the employment of children who have not attained the age of 14 years in hazardous occupation yet the Act has neglected the Child Domestic Workers it being the “Child Labour” Act. The unorganized sector of domestic workers should have been either included in the present Act or a separate Act should have been formulated for the Child Labour Domestic Workers for their regulation.

The present Act also does not specify the conditions of work or regulating the conditions of work/employment of a girl child who has a different physical capacity of work and different physical ability and structure which needs special care and attention. The Act also does not specify and mention the nature of work that should be performed by a girl child and boy child. Both of them are regulated by the same provision which is a negative approach towards the natural, physical and mental growth of the girl child as prescribed in the Constitutional provisions.

It is yet another Act which has failed to regulate child labour. The Act has no special provisions with regard to the girl child labour as domestic help. It is necessary that laws be formulated in such a manner that the girl child labour is recognized with dignity. The provisions of the act make very little sense because unless the child labour is identified and registered they cannot be provided with any benefits or security.

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**The Factories Act, 1948** prohibits children below 14 years to be employed in the factory and regulates the working conditions and working hours of young persons. The provisions of the Plantation Labour Act, 1951 has regulated the working hours of the child. So also The Mines Act, 1952 regulates the employment of persons below 18 years of age to work in any mine which is below ground. The Act also provides for apprentice and other trainees who are below 16 years of age. They may be allowed to work by permission of the employer and the directions of the manager.

**Physical Fitness of Child Labourers:** The Factories Act, 1948 says that children desirous of working in factories should not only complete the minimum admission age but should also obtain certificate of fitness from the certifying Surgeon to work in a factory. The Plantation Labour Act, 1951 also allows a child who has completed his 12th year and adolescent to work in any plantation if he is certified to be fit by a duly appointed certified Surgeon. Under the Mines Act, 1952 an adolescent, who is between 16-18 years of age, is allowed to work below ground if he has a medical certificate from a certifying Surgeon declaring him fit for work as an adult.

**Regulation of Working Hours of Child Labourers:** The Factories Act, 1948 and other Acts have regulated who are the working hours of the children under the age of 15 years to 4 and half hour a day. But the Shops and Commercial Establishments Act prescribes the working hours for children between 5-7 hours daily and ½ an hour to 1 hour rest interval after 3-4 hours continuous work for the children and adolescents. The Plantation Labour Act, 1951 allows a child worker only between 6am to 7pm and the total maximum hours in a week prescribed under the Act is 40. Under the Mines Act, 1952 an adolescent who does not possess a certificate from the certifying Surgeon may not be allowed to work in a mine above ground for than 4 hours on any day and only between 6 am to 6 pm.

**Prohibition of Night Work for Child Labourers:** The Factories Act, 1948 prohibits night work of children under the age of 15 years employed in factories. The children shall not work for of 12 consecutive hours unless it includes the intervals if he is working between 10pm and 6pm. The Mines Act and Plantation Act prohibit the children during the night to work. There is also prohibition of night work in occupations related to the goods transport, transport of passengers or mails by railway or port during a period of 12 consecutive hours between 10pm and 7am.
Annual Leave with Wages to Child Labourers: The Factories Act and also other, labour enactments provide that every child who has worked for a period of 240 days or more during a calendar year must be allowed during the subsequent calendar year leave with wages for a number of days calculated at the rate 1 day for every 15 days of work performed by him during the previous calendar year.

Health, Safety and Welfare of Child Labour: Under the Factories act apart from providing suitable and adequate Welfare, Health and Safety facilities such as canteen crèches, rest or lunch rooms, cleanliness, ventilation, temperature, drinking water, latrines, fencing of machinery, etc., restrict particularly the children not to clean, lubricate or adjust any part of prime mover or machines exposed to risks of injury. Children cannot be employed for pressing cotton opener is at work. Under the Mines Act the employment of children anywhere is prohibited.

The Motor Transport Workers Act, 1961 has prohibited the employment of the child who has not attained the age of 14 years in any capacity in any motor transport undertakings but an adolescent who has not completed his 18th year of age can be allowed to work if a certificate of fitness is granted to him. Whereas The Bidi and cigar Workers (Conditions of Employment) Act, 1996, prohibits the child below the age of 14 years of age but not 18 years may be allowed to work but shall not be allowed to work during 7 pm to 6 am.

With the expansion of International communication through various conventions and developments many movements have taken place in the form of child welfare field. New concepts have emerged to protect the child. A large number of men, women and children today live a sub-human existence. They live under poverty conditions and are not aware of any laws existing for their social economic development. A step forward in the direction was taken by making amendment to the Factories Act, 1948 which enhanced the minimum age of employment to 14 years. The Factories Act, 1948 was amended and the amendment was strictly regarding the employment of young persons.

Further the Employment of Children Act was amended in 1951 which prohibited the employment of children between 15-17 years at night in railway and Post. In 19511 the Plantation Labour Act was passed in order to prevent the employment of children under 12 years in plantations (sec. 24). Adolescents could be employed for underground work upon the satisfying of two pre requisites-firstly, he must have completed 16 years and secondly, he must have a certificate of physical fitness from a certified surgeon (sec. 41(1)).
In 1954, The Factories Act was further amended by the Factories (Amendment) Act, 1954 to prohibit the employment of adolescents under age of 17 years at night. Also the children under the age of 15 years are not permitted to be assigned with or carried to sea to work in any capacity in any vessel except in particular cases as under the Merchant shipping Act, 1958.

One of the landmark enactments was passed in 1966 to prevent the children in bidi industries—Bidi&Cigar Workers (Conditions of Employment) Act, 1966. The Act defined the word ‘child’ and prohibited the employment of children under the age of 14 years in any industrial premises (sec. 2(b)). Young children between 14 and 18 years were also forbidden by law to work at night between 7 pm to 6 am. In all these legislations the minimum age of employment on shops and commercial establishments is 12 to 14 years. It is observed that all the enactments have regulatory provisions for children but none have regulated the working hours of the girl child labour as domestic. The Constitutional aspiration to treat all the citizens equally seems to be a failure.

The National Policy for children had adopted a resolution in August 1979 which formulated policy framework and measures which aimed at providing adequate service for children. The policy has recognized children as the ‘nation’s supremely important asset’ and declared that the nation is responsible for their nurture and solitude. In respect of the employment of children, the National Policy has laid down that “no child under 14 years shall be permitted to be engaged in any hazardous occupation or be made to undertake heavy work”.

The convention clearly specifies the upper age limit for childhood as 18 years, but recognizes that majority may be obtained at an earlier age under laws applicable to the child. The article thus, accommodates the concept of an advancement of majority earlier age, either according to the State laws of a country or personal laws within that country. However, the upper limit on childhood is specified as an age of ‘childhood’ rather than majority recognizing that in most legal systems, a child can acquire full legal capacity with regard to various matters at different age.

There are varied definitions of child work and child labour depending upon the type of work the children perform. Certain type of work is difficult to perform and some are hazardous and morally criticized. It is observed that children carry out variety of tasks and activities. Thus, the term ‘child labour’ can be defined as work that forces the child away from his childhood.
In its more extreme form, child labour involves children being subjugated, disunited from their families, exposed to serious hazards and illness and left on their own to find their living. Whether a particular type of ‘work’ can be called ‘child labour’ depends on the age of the child, type of work they perform, the number of hours they work, the circumstances under which their work is performed and the objectives set forth by all the countries. The answers to the above would vary from country to country, as well as within the different sections of the society. It is thus observed that while defining the term child work no specific efforts have been made to define the term girl child.

The existing standards do not seem to be sufficient to protect and define the child as domestic helper in general and has no special mention about the girl child labour as domestic help. In extreme cases the domestic work can amount to forced labour. The existing Conventions of Human Rights do not address and define the unique circumstances of the child domestic workers, the specific conditions in which the girl child works as domestic help, the location of employment in private households has meant that in practice, there protections have not extended to domestic workers, including the girl child labour as domestic help. In many countries including India, National Labour legislations exempt domestic workers in all respects, so as to define the ‘child’, to achieve uniformity in deciding the minimum age factor and for their protection.

In The Unorganized Workers’ Social Security Act, 2008 the framers have realized that the workers in the unorganized sector do not get adequate social security on account of their being unorganized. But the Act has yet made provisions for only certain categories of workers and has not cared the whole unorganized sector. The Act shows huge deficit in covering and ensuring protection through social security laws to all those who are working in the unorganized sector. The act provides to constitute a National Social Security Advisory Board and also State Social Security Advisory Board for recommendation of welfare schemes. Their functions are to assist the unorganized workers through workers facilitation centers to process and forward application forms for registration of unorganized workers.

The act has specifically mentioned the age as 14 years to obtain the registration and social security benefits. But the duty is cast upon the unorganized worker to fill up the application in the prescribed manner in order to obtain the registration smart card with unique identification number.
The definitions in the Act are very ambiguous. The definition of “home-based worker” according to the Act is a person involved in the production activity for an employer may be in his home or any other premises. Such work must be performed for some remuneration. But normally local authorities do not allow manufacturing activities in residential premises even if manufacturing activity is conducted in residential premises the same are considered to be cottage/domestic industries for which proper and specific provisions of the Act in respect of the child workers are required to be specified and implemented. It is thus essential to identify the girl child in such sectors where employment of girl child is on higher degree where she is highly vulnerable to exploitation from the employer and other workers as no special welfare facilities are available to the girl child.

The definition of “unorganized worker” according to the Act is a home based worker, self-employed worker or a wage worker in the unorganized sector and includes a worker in the organized sector who is not covered by any of the Acts mentioned in the Schedule II to the Act. In the present definition also the employer is not held responsible for the registration of child labour due to which the adverse condition which the child labour is made to face is not pinpointed. The number of work hours are not regulated, the child is not medically examined as none of the employer looks after the welfare of the child labour whether employed partly or full time.

The definition of “self-employed worker” states that a person who engages himself or herself in any employment in the unorganized sector where in a monthly earning is assured as notified by the Central Government or the State government from time to time. A self-employed worker may also hold cultivable land subject to prescribed ceiling as may be notified by the Government from time to time. This definition in the Act is also incomplete as a class of employer has been mentioned who utilizes the services of a child labour but does not acknowledge the responsibility. For example the girl child labour as domestic help is employed say for about 2 hours daily but her protection, welfare and health is not taken into consideration by any of the employer, her working hours are not controlled, her health is neglected and education is overlooked. The employers accept their services without responsibility.

The definition part in the Act is not complete as it does not define the term “Child” and “girl child” clearly. The constitution of India prohibits a child of less than 14 years to be employed in hazardous work but it is observed that domestic work is non-hazardous work and girls
below the age of 14 years are observed to be working along with her mother. It is also observed that complete elimination is ruled out then why not secure her future along with her present. A common representation will not be sufficient to give recognition to the girl child labour as domestic help.

There is also no provision of registration of child labour and no provision for protection of child labour in this Act. There is also no distinguishing factor between child, adolescent and adult worker. The present Act has defined/considered every person above the age of 14 years to be an adult worker and this policy itself is against the Constitutional provision declaring a person to be an adult from and after the age of 18 years.

It is thus observed that the present Act does not define social security and also the essential factors in securing social security to the unorganized sector also remain uncovered. The basic factors or requirements which must be covered are residence, shelter; adequate food which should not be under nourished, health, safety and protection all remain undefined and uncovered. The schemes which are suggested in the Act are neglected by the Government and the NGO’s has also not given importance to it and hence the social security benefits remain a dream for the beneficiaries.

The Act is solely devoted to the child workers, but there is no spirit of welfare state and it also suffers certain lacunas. Section 13 of the Act empowers the appropriate Government to make rules for the health and safety of the children employed in any establishment wherein no specified time to make such rules has been specified. The Act also fails to mention any welfare provisions for the child labour. The provisions of the Factories Act could very well be extended to The Child Labour (Prohibition and Regulation) Act, 1986.

DOMESTIC WORKERS (REGISTRATION, SOCIAL SECURITY AND WELFARE) ACT, 2008:

The objectives and purpose of the above mentioned Act has agreed up on the fact of children being trafficked and exploited without any form of restrictions and regulations. It has also been agreed that there is lack of proper legislations due to which the situation of domestic workers including children have deteriorated. The Child Labour (Prohibition & Regulation) Act, 1986 also cannot be implemented in the absence of any implementation mechanism in the Act. It is also noted that due to lack of central legislation which would be
capable of reaching the domestic workers the problem of minimum age also remains unsolved.

The present act contains the definitions ‘child’ which again insufficient to cover the girl child labour. The definition is very general in nature and has laid the age of 18 years to be called as a child. That means a girl who is less than 18 years and who is working as domestic help cannot be a beneficiary to the Act.

The definition of ‘wages’ is also of no help and it is same definition of wages as is in other Acts like the Payment of wages Act, 1936, The Payment of Act, 1956 etc. the said definition would be of no help to provide any money to the girl child labour as domestic help. Another reason for it is that since there is no relationship of employer-employee the term ‘wage’ has no meaning.

Though the Act has made compulsory registration yet the exact authorities have not been designated. The responsibility of registration is put up on the domestic worker itself if they are working with one or more employer which also ambiguous.

It is observed that the age of registration being 18 years it has left out a large section of girl child who is working as domestic help. Hence she entitled for the benefits under the Act which cannot be availed by her due to the restrictions imposed by the act. Though the Act has its name as social security but there are no provisions of providing social security to them. On the other hand the beneficiary is that worker who has completed 18 years of age but has not completed 60 years of age. In fact a person needs social security on after he attains the age of 60 years and then he is unable to work. The Act thus is an incomplete set of sections and of very little or no benefit to those from it has been formulated.

Despite all the efforts made by the government by formulating the present Act there is no relief to the workers of unorganized sector specially the child domestic workers because the Act does not cover this section of the workers and the girl child domestic help has no mention at all and has excluded the domestic workers in general and girl child labour as domestic help in particular. Since there is no nodal authority for the implementation of the provisions, all the good intentions of the legislators have become a dream for the needy with no hope of implementation and it appears like “Mungarilalkesapne”.
4.4. FIVE YEAR PLANS AND GIRL CHILD LABOUR AS DOMESTIC HELP:

The five plans in our country have always on its agenda with most importance, the development of the social sector, social security and utilization of human resource. It is through planning and successful implementation shall provide economic and social development. The concept of five year plans will prove to be successful in enforcement of labour legislation for achieving welfare of the children. The programs and policies of social welfare under the five year plans are viewed as being oriented towards relief, rehabilitation and providing social security to the child labour.

The First Five Year Plan (1951-56) recognized and acknowledged the need for consideration of children regarding their nutrition which is the cause of their ill-health. Accordingly in 1953, the Central Social Welfare Board was established in order to mobilise resources for the development of the children. Stress on community development was necessitated for rural development for the transformation of social and economic life of the villages. Accordingly many schemes and programs were implemented so as to develop the rural economy. The agricultural sector child labour was kept in the agenda during process of formulating the policies.

The Second Five Year Plan (1956-61) was an attempt for welfare projects to be coordinated with community development programs. This plan emphasized on the role of local bodies and communities which would be helpful in promoting and providing services for children. The plan signifies for providing free and compulsory basic education to all children. The plan though had shown concern for children but there was no mention of the child labour or the girl child labour as domestic help. The central and state plans received attention with regard to the children but no special was given to the given to the girl child labour. Attention was given to the physically and mentally weak and handicapped children but no attention was paid to the vulnerable class of girl child labour as domestic help.

The Third Five Year Plan (1961-66) was especially for the unorganized industries and it was stated that “while considerable improvement had occurred in the living and conditions of the employees in large and organized industries, owing both to state activity and trade union action, a great deal of leeway remained to be made up in respect of the working children in agriculture and unorganized industries. It was thought that the working conditions of the children should become a matter of special concern to government, as well as to labour organization.”

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The Third Five Year Plan however made efforts for giving impetus to the unorganized industries, but proved to be less effective. It did not however include the domestic service precisely because the prime question is whether the domestic work is included in the word industry. Hence, there is a need to define the unorganized industry and also to mention all those sectors and establishments that could be included while defining the unorganised industry. Though the plan suggested for a separate code for laying minimum service and working conditions for the workers of the unorganized yet, we find that no such code or legislation has been formulated. There has been suggested for appointment of special labour officer to assist the enforcement of the law for implementation. Since there is no law the appointment of any such officer makes any sense.

The Forth Five Year Plan (1969-74) however, gave new looks to the previous plans and could do nothing more than a copy of the similar provisions and suggestions with a little change in the words. It made changes by shifting the curative and rehabilitative approach to preventive and developmental approach. It now laid emphasis on the small unit i.e. the family and the community to cope effectively the challenges of the dynamic society. The previous family and community welfare programs were now to integrated child development programs and services. According to the plan it could ensure an overall development of the child. It suggested to introduced package of services to the children and the women separately, which included nutrition, immunization, health checkup education and other family welfare services.

The Sixth Five Year Plan (1974-79) emphasized on giving vocational training to the children and save the child labour from all kinds of exploitation from their employers. Child development programs were initiated in the Fifth Year Plan and the same continued in the Sixth Five Year Plan. But there a change introduced in the system of implementation, that a system of monitoring was to be developed and local authorities were to be involved in implementing the development programs.

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There was an introduction of rural functional literacy schemes. The total abolition of child labour was not found to feasible proposition in the near future due to the low social-economic profile. It was during the Sixth Five Year plan realized fir the first time that child labour
should be distinctly addressed in different categories of wage earning employments, paid family members as workers and learners or apprentices in the traditional crafts.

It was also realized that the different classification of child labour must be introduced with different welfare measures and a collective measure for improving the conditions of child labour should be made. ⁹

The Sixth Five Year Plan aimed at improving the sustaining conditions of life the families where children are forced to work due to economic backwardness. Since it was not easy to eradicate child labour overnight it was suggested to make policies and programs which would focus on improving the working conditions and put the child in better bargaining position.

The Seventh Five Year Plan (1985-90) for the first time thought of eradicating child labour from certain occupation and employments. The plan set its objective to enroll the children of the age group from 6-14 years by 1995. The plan laid emphasis on improvement of conditions of work of child labour. It also suggested for creating environment so as to allow the child to be socially acceptable. Improvement in the existing legislations was also suggested along with non-formal education to child labour. The plan also introduced poverty alleviation programs in a decentralized manner from the grass root level. It suggested the involvement of village panchyats, village samities, zilaparishad and other local bodies working in the field of child labour.

The Eight Five Year Plan (1992-97) was a landmark step towards the eradication of child labour problem. Under this plan certain developmental programs were included through private and governmental agencies to provide maximum assistance to the child labour. The plan also introduced the Employment Assurance Scheme which was a unique idea through which employment opportunities were generated during the slack agricultural season.

⁹ Prasad Narendra, June 1990, Child Labour in India, Current Topics, pg.351

The plan also laid stress on self-employed programs to the weaker sections of the society. For the first time the Tribal education programs with due respect to their culture were introduced. It was also for the first time that a special attention was given to the girl child education and efforts were made for the retention of the girl child in the school.

The Ninth Five Year Plan was yet another step forward in promoting the interest of child labour in India. Integrated Rural Development Programs, Development of women and
Children in Rural Areas and Training of Rural Youth for Self-Employment are the efforts aimed in the plan. The Plan also aims at releasing the children from the clutches of the employers who use them for their selfish ends.

Though the various Five Year Plans have realized the need to either eradicate child labour or to regulate the working conditions of the child labour in both organized and unorganized sectors yet, the government has failed to enforce and implement the child labour laws up to the expectations of the society. The Government also seems to be concerned about the prevalence of the child labour yet, it unable due to lack of political will to fulfill the aspirations of the Constitutions and the recommendations of the Five Year Plans. It is also aware of the persisting rise in number of children employed in different organized and unorganized sectors but it is an apathy that the government fails to implement the existing laws strictly and also make use of them to the benefit of the child labour.

It is observed that the enforcement machinery designed to inspect the plight of employers towards the child labour is also unsatisfactory. The government has also failed in enforcing the various Integrated Welfare Measures suggested by the Five Year Plans. The State Government and the commissions and committees have been failing at all levels due to which the problem of child labour has aggravated. The special category of girl child is far away from finding its place in any of the government policies and laws which has resulted in the present scenario of rampant disrespect and exploitation of the girl child and girl child labour. The unawareness and neglect not only of the Government but also of the society has led to the disintegration and deteriorating position and status of the girl child in the society.

**4.5 SOCIAL SECURITY PROVIDED TO THE GIRL CHILD LABOUR AS DOMESTIC HELP:**

There are some people in the society poor and unfortunate. There is always a confrontation between the “haves and have not’s.” The democratic countries have always made efforts to reduce the inequalities from the society by introducing various economic policies and schemes for the benefit of the economically backward classes. The society has been facing problems of unemployment and underemployment followed by poverty. Due to these problems the people have to face many hardships like sickness, disablement etc. these contingencies have been cured to certain extent by private institutions, religious institutions and charitable institutions. But, it was not sufficient provision and the State had to step in for further and permanent solutions to be provided to this section of the society.
Thus the issue of Social Security is gaining impetus and it has become a constant urge of man to tackle the problem with State assistance. In India only the industrial workers under the organized sector enjoy the fruits of Social Security legislations. There are no social security legislations for the child labourers. Also the schemes and policies which are in existence for the child workers in the organized sector reach the beneficiaries. Though the world recognizes child labour and considers it to be undesirable nothing is done regarding providing Social Security them.

The present laws do not consider the child labour to provide social security. There is also no separate social security legislation for the girl child as domestic help who deserves special attention and protection due to her special status in the society as physically weak. They need special laws and social security for protection from sickness, medical treatment and care.

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 people and their level of social consciousness, the advance of technology and the pace of economic development. From its modest beginnings in a few countries in the early decades of the last century, social security has now become a fact of life for millions of people, throughout the world. Social security measures have introduced an element of stability and protection in the midst of stress and strains of life. It is a major aspect of public policy and extent of its prevalence is a measure of the progress made by a country towards the ideal of a Welfare State.

These sentiments shown by the National Commission on Labour have to be tested at this point that whether the ideal Welfare State policies cover the unorganized sector and specifically the girl child labour as domestic help? The question always remains unanswered since none of the governmental agencies tend to bring this section of the society under the purview of law. The notion of social security is based on idealism of human dignity and social justice. The conceptual idea on which social security depends is that where a citizen who by his work contributes or in future would contribute to the nation’s economy is entitled to be protected against future unseen circumstances. In the early stages, workers sought protection against the contingencies they were exposed to through small savings, employer’s liability or private insurance. Later protective legislations became common on the theory that the employer who set up a factory created an environment which was likely to cause injury to his work people and the loss sustained by the victims should be charged on the employer.
In the process of evolution measures adopted by different societies for protecting the needy individuals have been manifold. They include individual acts of charity and philanthropy; these devices progressed to include mutual benefit schemes, both formal and informal. Then followed state sponsorship and state participation, finally culminating in the present pattern where social security measures form a major plan of governmental, policies in many countries.\(^{11}\)

However the need for social security can be explained but for understanding the meaning of social security we must try to accept a universal definition of social security. The definition shall have different perspective from country to country because of the different stress elements and social and economic developments of the societies. The social security provisions are the specific needs of a particular society and reflecting its socio-economic situations.\(^{12}\) Social security thus can be said to be that security that gives an assurance to the worker that while is at work, not only his present but his future is secured.

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\(^{10}\)Report of the National Commission on Labour 1969; pg.162, 
\(^{11}\)Dr. V G Goswami, 2004, Labour and Industrial Laws, Concept of social Security, pg.3. 

\textbf{4.6 DEFINITION OF SOCIAL SECURITY:}

According to Prof. Nurul Hassan, the term social security is used to mean the security that the society furnishes through appropriate organization against certain risks to which its members are exposed. According to Lord Beveridge the term social security means the security of an income to take the place of earning 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 other person, and to meet exceptional expenses connected to birth and death.

Cassidy defines social security as a scheme that connotes particularly measures of income maintenance or income security. According to Encyclopedia Americana the term social security is usually employed to indicate specific government programs designed primarily to prevent want by assuring to families the basic means of subsistence. The ILO has redefined the term social security as only such schemes provided to the citizens with benefits designed to prevent or cure diseases to support him when unable to earn and restore him to gainful activity.

The ILO has further defined the term Social Security as “The Security that society furnished 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 his fellows. In such circumstances the poor parents are compelled to send their children to work for economic gains and the girl child is also drifted in to domestic help to support her family.

As a matter of fact social security is a safety provided by the society against risks; natural calamities, sickness, social and economic depression or otherwise. The earnings when interrupted by circumstances arising out of unemployment, sickness, accident, securing retirement through super annulation leads to unexpected depression of earnings and hence providing social security can help overcome these situations with ease. It is a security equivalent to maintaining one’s income and to provide cash benefits to meet certain contingencies.

According to V George, social security is not merely a system of preventing people from dying of starvation, but a system which will assure people a full life, a system which will embrace health, education, leisure and culture apart from securing food, shelter and medical service. He is also of the opinion that the term social security is a combination of three trends; it is first of all, an economic policy aimed at full employment. Secondly, it is a medical policy and thirdly a policy of income distribution aimed at modifying the results of the blind interplay of economic forces and at adapting the income of each individual and each family to that individual’s or family’s needs having regard to all the circumstances which may affect such income in future.

A rational approach to the ideal of social security emphasizes that social is an objective to be achieved universally. It envisages a structure of society in which each member enjoys the highest material well-being compatible with potential productive resources. Pathological social conditions-continuous mass unemployment, unnecessary ill-health and accidents cannot be reconciled with social security. Social security is an ephemeral myth until such concerns are removed. The mere palliative provision of cash benefits is not enough.

Thus, it is clear that social justice and social security both are two sides of the same coin which aim for human dignity and it is also clear that social justice reach to social security.
Both aim at providing conditions conducive of human existence. They both also aim at fulfilling the objective to create circumstances where the human beings are economically fearless and not deprived of economic security.


4.7 SOCIAL SECURITY FOR ORGANISED SECTOR:

It has been observed that there are a few laws of social security which are either contributory or non-contributory in nature. The contributory laws provide for financial schemes by contribution paid by the workers and the employer, but certain laws are non-contributory i.e. by way of grants by the government. The contributory schemes include-

The Employees State Insurance Act, 1948 which provides for medical care and income security benefits in respect of health related contingencies such as maternity, sickness and occupational injuries. The state government also makes contribution towards this scheme. The Act is applicable to those establishments who employ 10 or more persons and wherein manufacturing process is carried on with the aid of power and employing 20 or more persons and carrying on a manufacturing process without the aid of power and such other employments as the Government may specify (sec. 1(4) of the ESI Act).

The Act aims at expanding economic activity and adhering to the liberal concept as enshrined in Part IV of the Constitution, wherein it enjoins not only the State and its instrumentalities but even private industries to ensure safety to the workers. To provide facilities for health and growth of the workers as assured by Part IV of the Constitution and it is also an essential part of right to equality under Article 14 and right to life under Article 21. Thus, the provisions of the Act should be interpreted in the light of not only the aims and objects of the Act but also the constitutional, fundamental and human rights.
The Workmen’s Compensation Act, 1923, was the origin of social security legislation in India. The Act ensures social security to the workers by way of compensation towards injury caused due to accident arising out of and in course of employment. The Act puts the liability on the employer for the payment of benefits. Though the Act applies to whole of India and special mention of railways and other transport establishments, factories, fire brigade, plantations, etc. has been mentioned in the schedule of the Act but the Act has not included the girl child labour as domestic help.

15. Dr. V.G Goswami, 2005, Labour and Industrial Laws, Pg. 21.

The logic applied behind The Workmen Compensation Act was to exercise a strict control over private enterprise, whether joint or individual. It is not only necessary to make laws so that the conditions employment could be regulated but, to regulate those conditions in which certain unforeseen events take place at the work place. The employee under the Act can seek damages through legal remedy for sustaining injuries, disablement or death during the period of employment and at the work place. This benefit would be availed only if there existed master-servant relationship between the two.

The Workmen’s Compensation is a mechanism for providing cash wage benefits and medical care to victims of work connected injuries. The general idea behind the Act is that compensation should ordinarily be given to workmen who sustain personal injuries by accident arising out of and in course of employment. Similar logic and concept can be applied to the girl child labour as domestic help and the Act can be extended to the unorganized sector workers.

Though the Constitution affirms to all citizens of India social and economic justice, but this has yet to be secured by peaceful, social and legislative steps. It is thus the function of an ideal welfare state to provide to every citizen the opportunity of earning his living and freedom from fear of economic ruin which involve physical and even moral ruin.16 The Act contains a provision under which the extension of the Act to other establishments is vested with the State Governments. Thus the Act may be extended to domestic workers and other unorganized sector workers. The only need is to provide for proper identification and allotment of registration number of these domestic helpers so that the responsibility and accountability can be attributed on the employer/employers/job providers of the girl child labour as domestic help.
The Industrial Dispute Act, 1947 also provides for social security measures by way of making payment by the employer by way of compensation to workers in the event of lay-off or retrenchment. Such compensation is paid to those employees who have fulfilled the conditions under sec.25 (B) & (C). However this Act also has no mention of the unorganized sector for the sole reason they are not included in any of scheduled employments.


The said Act aims achieving socio-economic ethos and aspirations and needs of the changing times. The Act was passed to make provisions for promotion of industries and peaceful and amicable settlement of disputes between the employers and employees in an organized activity of conciliation and arbitration and for other purposes. The preamble of Act reads that it was introduced to achieve social justice. The Act seeks to ameliorate the service conditions of the workers, to provide machinery for resolving their conflicts and to encourage co-operative effort in the service of the community.

In order to give a better meaning to the object of the Act a question can be raised that can the domestic service provided by the girl child labour between the age group of 10-18 years of age is considered as a service industry? And if the answer is yes to the question then the girl child labour and her job provider should be brought under the purview of the Industrial Dispute Act, 1947.

The Employees, Provident Funds and Miscellaneous Provisions Act, 1952 is a compulsory contributory fund for the future of the employee. It is a fund where both the employee and the employer are contributors. This type of fund is useful in the sense that it would cultivate the habit and spirit of saving regularly a small part of his income. It will also encourage stability in the worker to stay on with the employer. But it is observed that the Act is unable to extend its provisions to the unorganized sector to which the girl child labour belongs and there is no mention of the unorganized sector in the Act.

It is thus observed that this social security Act is a master piece for the organized sector workers. Though the definition of employee says “that any person who is employed for wages in any kind of work manual or otherwise”, but it does not include the child labour or the girl child labour for such kind of benefit. It should be thus noted that none of the workers in the unorganized sector are represented by this Act.
The Payment of Gratuity Act, 1972 provides for a retirement benefit to the workmen who have rendered long and sincere service to the employer. This Act applies to every establishment in which 10 or more persons are employed or were employed on any day of preceding twelve months (Sec 1(3) and 1(3) b). The Act also applies to every factory, mine, oil field, plantation, port and Railway Company. It has also been applied to motor transport, clubs, chamber of commerce, Inland water transport establishments, local bodies, solicitors’ office, commercial establishments, educational institutions, municipal boards, municipal corporations, nagarnigams etc. The Act has laid emphasis on continuous service of an employee up to one year.

It has been observed by the Supreme Court in Ahmedabad Primary Teachers Assn. V. Administrative Officer (2004 SSC (L&S) 306) that the Act is a piece of social welfare legislation and deals with the payment of gratuity which is a kind of retriaval benefit like pension, provident fund etc. As has been explained in the concerning opinion of one of the learned Judges and of the High court “gratuity in its etymological sense is a gift especially for services rendered, or return for favours received.”

It has thus been acknowledged by the society that all persons consisting of the organized and unorganised force needs security arisen by loss of income due to unemployment, old age, disablement etc. Secured income must be treated as a fundamental right of the workers because they need it the most when they become infirm or incapable of working. The provisions of the Act assure social security by providing employment insurance, provident fund and pension to the workers to secure their future. The Act has also accepted the fact that social security is very important to the wage earning population in industries and other establishments. But no measure of social security has been made for the girl child labour as domestic help who bears a higher share in the unorganized sector.

It is observed during the study of the said act that the compulsory feature to avail this social security benefit is the presence of “continuous service” between the employer and employee and that gratuity could be given only on superannuation, retirement by old age or disablement. Hence it is difficult in providing such type of social security to the girl child labour as domestic help. But if they are identified and registered and if special laws are formulated for them they would tend to be in continuous service with one job provider. The special laws would help them rely on the job provider and they would continue to remain in service unless it is circumstantial to quit. They can also be given the same social security as
any organized sector worker is given. In fact there is need to organize the unorganized sector so that could be provided with social security they need.

**Payment of Bonus Act, 1965** is also said to be social security legislation. The Act is also aimed to make certain payments to the workers apart from their wages. The formulation of the Act is based on three concepts according to the social democrats.

First is a simple profit sharing, second, shareholding with co-partnership and shareholding without co-partnership. The concept of bonus has undergone considerable change during the past years. During 1910’s the term bonus was used as dearness allowance as is used now to compensate to rising prices. Later it evolved as share in increased profits and wages were fixed at normal conditions.

Article 43- The State shall promise to secure by appropriate legislation or economic policies a living wage, healthy conditions of work and a decent standard of life with enjoyment of leisure to all the working population. The Act also notifies to provide for social and cultural opportunities particularly in rural areas. It is observed that the Article includes the words “all workers” which shall include the girl child labour as domestic help in particular and child labour in general.

Article 47- The State shall strive to raising the nutrition level and the standard of living of its people. It shall also make policies towards improving the public health as among its primary duties.

Though payment of Bonus is on the basis of profit sharing yet it has onemore concept behind it. It is also a payment to a worker for those expenses during the festival time which he cannot spend from his regular income and is also termed as festival bonus. It is called as customary bonus because it is paid during any particular time of the year by way of custom. Bonus can also be called as stimulus to extra work and efficiency by the workers, other than their regular wages. These kinds of payments are made in cash or may be in kind. But, now it is by way of right that the workers claim bonus and not as ex-gratia payment.

The payment of bonus today is made usually in cash unless agreed upon otherwise. Though the Act has been applied only to the organized sector it can be extended to the unorganized sector workers because it bears various meanings under which the domestic help can also be covered. Though the base is of profit sharing yet, by considering the domestic help a service industry it can be brought under the ambit of bonus Act.
After making a study of the various social security Acts existing today it can be concluded that all the Acts are formulated under the Directive principles of State Policy but, the Acts do not fulfill the aspirations of the constitution totally. They lack to cover all the working classes in the country hence leaving them to distress and economic hardship.

The various Social Security Acts do not aim at providing stability and protection to the stress and strains of life of all the working classes of the society. They fail to make progressive measure for the country as a whole to fulfill the promise made by the Constitution of a Welfare State. It is also once again observed by the researcher that the various social security Acts have no provisions for the unorganized sector. The legislations also do not pay any attention towards the domestic workers. It is also observed that there is a need for special legislation for the girl child labour as domestic help.

4.8 SOCIAL SECURITY FOR WORKERS IN UN-ORGANISED SECTOR:

After the study of the social security legislations it is observed that all the enactments are covering the organized sector. The un-organized sector comprises much larger part of the total work force in our country and nothing is done for their social security. The un-organized sector is engaged in the agricultural sector, small traders and hawkers, porters, auto rickshaw drivers, domestic workers etc. They form a class of workers who are also at risk of kinds of hazards and particularly the girl child is the most vulnerable group.

It is the duty of the employer along with the government to facilitate and make provisions for social security of the labourers who constitute the un-organised sector. It is observed that the workers in the un-organised sector are not covered under any legislation providing social security due to certain peculiar characteristics of the sector such as their seasonal intermittent nature of work, multiple employers, absence of employer-employee relationship, absence of registration, lack of forming associations and neglect by the administrative machinery.17


Thus it is observed that there is a need for immediate action plan to be made by the legislators and supported by the NGO’s for the un-organised sector workers in order to promote social security measures. These provisions would help them lead a better today and a secured future as enshrined by Article 21 of the Constitution of India. It is important that considering the
special characteristic and physical condition of the girl child labour as domestic help. They need special care and attention through special legislations, so that their rights could be recognized.

The legislators must strive to make laws so that they could be protected socially and economically. Their political and legal rights must also be protected by formulating special laws for them so that they could lead a respectful and dignified life. It has been observed that none of the existing laws can be accessed by this group of girl child labour as domestic help. It is observed after the study of the aims and objects of the above social security Acts for the organized sector that they can be applied to the unorganized sector also. None of the Acts have fulfilled the aspirations of the Constitution of India. It is thus the duty of the appropriate government and the legislative machinery to extend the provisions of the existing Acts to the other sectors of the country so that all the citizens who constitute the work force and contribute in the development of country are brought under the purview of social security legislation.

**SUM UP:**

The foregoing discussion of the legislative provision and safeguard provided to the child labour has revealed that the problem has become the focus of attention and has a very heavy impact on the country’s development. The laws are expected to bring a change in the social system through its welfare provisions, regulatory provisions and controlling the existing provisions. The study of various labour legislations has revealed that the uniformity in the laws has to be achieved and providing welfare provisions merely shall not be sufficient to regulate and control child labour. The present laws have failed to satisfy the most elementary need of the parents. Hence they cannot avoid sending their children to work due to poverty and the child is sent to work at a very early age to supplement the family income.

So long as the regulation and abolition of child labour has not effectively been achieved as provided in present laws, the conditions of work, health and safety of the child labour will have to be protected in every circumstance. The only solution to do away with the unfortunate social tag of child labour we need to effectively implement and strictly enforce the existing laws by extending their provisions to the unorganized sector. The childhood of the child specifically the girl child labour must not be allowed to be lost in this world. The
present labour legislations have no mention of the girl child labour as domestic help. She finds no special recognition in any of the present Acts. Hence the present legal machinery has neglected the girl child labour that needs special attention due to her different physical capacity and status in the society.

It’s time we give special attention to the girl child labour as domestic help because a very large section of the society is indulged and seen working in this sector of domestic help. They are unorganized, scattered and poor and need work which would fetch them money instantly and without demand of any skills to be eligible for work. It is thus inevitable for them to work so that they become a helping hand for the family. The laws must be changed to protect the interest of the girl child labour which is silent till today. She should be provided social security through legislative procedure so that she is secured today and in future.

Through the study of the various five Year Plans it is observed that though they have discussed the unorganized sector but has failed to make provisions specifically for the domestic workers. It is also necessary to legislate either a special law for domestic workers and also include special provisions in the Act or a very special Act for the girl child labour as domestic help. Her work must be recognized and looked upon with respect. She must be given her due status through legislative support.

It is not that the issue of girl child labour as domestic help would be solved by formulating a special law in her favour but, it is necessary the enforcement machinery should be equally effective in implementing the laws. The failure of laws is merely due ineffective implementation of laws. The process of reaching of laws up to the needy has always been a slow process. It is thus observed that a new law would be of help to the present situation but, if the present Acts are amended by adding certain provisions that would be easier job and the implementation process could be started at the earliest.

The present study reveals that the social and economic conditions of the country are not helping the poor to with stand their poor living conditions and the present labour legislations are also of no help to improve their socio-economic conditions through the welfare schemes made available for them. There is need to test the present laws and analyse them by examining the provisions if they are sufficient to either abolish or regulate the conditions of work, working hours of the girl child labour as domestic help. How will the present laws be extended to the girl child with the aim of providing social security to her?
It is time that we must not depend only on laws every time to curb or bring in solutions for the issue of girl child labour as domestic help, but it’s time that we as a society take up the challenge as our responsibility to find solutions as to how social security can be provided to the girl child labour who helps us in our daily chores. We as members of the society have to own this responsibility. We can give a thought that how can we help her secure her present and her future. We must respecting the girl child labour and treat her in a dignified manner which is her human right.