CHAPTER V

INTERNATIONAL PRESPECTIVE – THE HUMAN RIGHTS AND CHILD RIGHTS

5.1. CONCEPT OF HUMAN RIGHTS:

“O Hidden Life! Vibrant in every atom;

O Hidden Light! Shining in every creature;

O Hidden Love! Embracing all in oneness;

May each who feels himself as one with Thee,

Know he is also one with every other.

-Annie Besant

The world is in continual change and flows copiously. According to Professor Hawking the world has no protector or preserver. He further says that, “there are well defined laws that govern the Universe and everything in it develops in time. Men are forced to consider the prevailing and inherent beliefs and customs to harmonize the present and the past experiences, through which he satisfies the demands of his feelings and builds up a new confidence for advancing in the future.

The concept of Human Rights is not a recent phenomenon and it existed not only in the European countries but in India also. But it is true that Human Rights gained momentum only during the Second World War. It was on 23th October, 1945 The United Nations Charter was signed and ratified by a number of States. On 10th December, 1948 the United Nations General Assembly adopted the Universal Declaration Human Rights by laying a common standard of achievement for all people of all nations. The principle behind it was that all men are born free and equal in dignity and rights. Men are gifted with reason and conscience and they should behave with one another with brotherhood.

The concept of Human Rights rests with The Universal Declaration of Human Rights and provides a foundation for the International Covenant on Civil and Political rights and International covenant of Economic, Social and Cultural rights. Civil and Political rights are
rights historically regarded as basic rights from which the philosophy of Human Rights is developed.¹

Human Rights are regarded as inborn, inherent, inalienable and universal. They are regarded as inherent people enjoy these rights by the virtue of being human beings. These rights are not in any way granted by the State. They are inalienable because they cannot be taken away or given up or allowed to be given up to anybody. They are universal because they are not just applicable to men or citizens or to weaker sections, but to all persons regardless of nationality, status, sex or race.

The hope for peace and justice in the world springs from the tireless crusade of the common people. The west has put mercantile goods above morality and humanity. This process has to be reserved if the triumph of the human race is to be accompanied. Human dignity is the quintessence of Human Rights. It is the wide comprehension of this aspect and appreciation of the dignity of the individual, unit of the family which must define the true scope of Human Rights. Human Rights assure full human dignity to every member of human race in the global village. Eradication of inequalities and making them accepted universally must be the aim of Human Rights movements in this millennium.²

Human Rights are indivisible, inter-dependent and inter-related having a definite linkage with human development. We must respect human rights which can prove the route for human development and also the individual can realize its full potential which leads to progress of any nation. The aim of Human rights should be to empower the citizens through the process of human development. Human Rights should aim at securing freedom and dignity to the persons universally.

---


The essential freedoms that must be achieved:

- Freedom from discrimination - by gender, race, ethnicity, national origin or religion.
- Freedom from want - to enjoy a decent standard of life
- Freedom to develop and realize one’s human potential.
• Freedom from fear- of threats to personal security, from torture, arbitrary arrest and other violent acts.
• Freedom from injustice and violation of the rule of law.
• Freedom of thought and speech and to participate in decision making and form associations.
• Freedom to decent work without exploitation.\(^3\)

The expression “Human Rights” covers every aspect of human life and its dignity. To achieve this legislature of all the nations are consistent with the International covenants. In India the Protection of Human Rights Act, 1993 under section 2(d) defines Human Rights as rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution of India or embodied in the International Covenants and enforceable by courts of India. The Statutory definition of Human Rights is expansive to cover the Fundamental rights in the Constitution. Human Rights involve relationships among individuals, between individuals and the state or groups of individuals and the state or between different groups of people.

Since Human Development is the new measure of Human Rights, it is said that the nation should possess the ability to apply knowledge profitably to transform its wealth, other resources and social values through the methods for innovation which would decide the future of the nation. The aim of every nation should be to achieve Human development linked with Human Rights for which education is the most effective tool which would lead any nation towards empowerment and Human Development. They by virtue of being humans have inherent, inalienable and basic rights which are termed as human rights. These rights are possessed by them because every human being has an existence and an entity of its own.

---


These basic rights are operative as soon as we are born. Human Rights cannot be alienated on the basis of caste, creed, religion, sex and nationality. These rights are vital as they help achieve them freedom and dignity which are necessary for their mental, physical, moral, social and spiritual welfare. They are necessary because they provide appropriate conditions for the moral development of every person. Human Rights are significant because they are
those fundamental rights which a human being possesses the moment he comes into existence in the womb of the mother.

Thus it can be said that the rights which a person has by virtue of his being human are human rights. They are based on basic human needs. They are characteristically important for human physical existence and health. These rights are associated with the traditional concept of natural law. 4

These are the rights of which no one can be deprived of, these are freedoms which can never be invaded, and they can be termed as divine and sacred. They are very much related to human dignity. These rights are necessary for the protection, maintenance and enhancement of human dignity. The World Conference of Human Rights held in 1993 at Vienna stated in the Declaration that all Human Rights perceive the dignity which is an inherent quality in the human person. The Declaration also specified that the human person is the central issue regarding Human Rights and their Fundamental Freedoms.

The question arises that what is the purpose of achieving these human rights? The simple answer could be for human development. The purpose of development is to fulfill the desires and choices of the people. The desires and choices are always changing from time to time and are countless. The objective of development should be to create an environment so the people would satisfy and enjoy their lives to their choice and need. Development is all about creating such an environment so that people could their potential and add to the productivity and creative life according to their interests.


Human rights can provide for those basic capabilities for human development so they can lead a healthy, knowledgeable life. They can have access to all those resources which will help them lead a decent standard of living so that they can contribute in the society. Human rights can provide access to many opportunities to lead a decent and productive life.

Aristotle said in ancient Greece, “wealth is evidently not the good we are seeking for, it is merely useful for the sake of something else.” According to E.G. Taylor in his “Buddhism
and Modern Thought” says “Man has been ruled by the external authority long enough. If he is to be civilized, he must learn to be ruled by his own principles of humanity.”

Hence to achieve that extra and those principles of humanity, human advancement and achievement of human rights are necessarily important. The ultimate goal should be achievement of human freedom. And to pursue these capacities and recognizing the rights we should assure freedom. People must feel free to exercise their desires and abilities; they must share their views in decisions-making which in turn will affect their lives. Human rights and human empowerment are both interrelated. They help people to secure their respect and dignity they deserve. Respect and dignity to all the citizens is the goal for securing human rights.

The Human Rights, which are inherent in every human being by birth and as member of human fraternity and they demand to protect their own identity. The civilized society shall not permit any compromise with the violation of Human Rights. These are non-negotiable, non-alienable and indivisible. They are recognized as vital to be worth of human being. They are acknowledged as the dignity inherent in all human beings, irrespective of their race, economic standard of living for the treatment of the individuals of the society. Human Rights are recognized as basic conditions for development of a civilized society.

Human Rights are natural rights which an individual inherits the moment he is born. The other rights are given to him by the legal machinery of his/her country. Human Rights cannot be taken away from the individual by any act of governmental machinery or any individual. The individual lives along with the rights till the end of his life. They are treated to be rights which are important and helpful for his/her development, socially, culturally and mentally.

**5.2. HUMAN RIGHTS DEFINED:**

It is indeed very difficult to define Human Rights yet; there are a few definitions to explain the meaning of Human Rights. The traditional view is limited to civil and political rights. The right to life, liberty and security are included in them. The human Rights are based on the dignity and respect for life of all human beings. They also ensure freedom from fear and wants. Human Rights are those rights which are essential for the survival, development and wellbeing of every man, woman and children. It can be said that human rights are fundamental and cannot be violated. They are universal and cannot be alienated.
It was argued that the traditional view is in a very limited sense and scope and the scope should more widened in approach. It is important that along with civil and political rights we must ensure economic, cultural and social rights so that human rights become multidimensional and holistic. The human rights include the right to work, adequate standard of living, right to be protected and enjoy their own culture, religion and language. The human rights also take care of protection of rights of the disadvantaged and minority groups and other indigenous people.

Paul Sieghart says that “the ultimate measure of whether a society can properly be called civilized is how it treats those who are near the bottom of the human heap.” However the United Nations has made efforts towards an integrated approach and determined the human rights strongly. It is also affirmed by the international community that civil, political, social, cultural and economic rights, all put together shall constitute human rights.

D.D. Basu defines Human Rights as those minimum rights which every individual must have against the State or other public authority by virtue of his being a member of human family, irrespective of any other consideration. According to Bennett, “Human Rights includes those areas of individual or group freedom that are immune from governmental interference or that, because of their basic contribution to human dignity or welfare, are subject to governmental guarantee, protection or promotion.”

Human rights are extended to develop the personality of an individual. They need to be protected and made available to any individual of the society. Human rights can be said as immunities which guarantee that nothing can be done against a person’s will. Hence, human beings should be given protection against unjust and debasing treatment. Human rights of an individual should be recognized as human dignity and honour. These are basic and natural rights which are fundamental human needs as imperatives. They are necessary and elementary needs for physical survival and health.5

5.3. EVOLUTION OF THE CONCEPT OF HUMAN RIGHTS:

The protection of rights of persons has its roots in the historic times. Many rulers had tried to evolve the concept of right of a person. They seem to aware that human beings should be assured some right through the legislative system and those rights must be given protection which they carry with them by nature. This realization had probably led to setting up of
various laws by different kings in the ancient period. It was their wisdom that has helped evolve today’s Human Right concept.

The Babylonian King Hammurabi had issued a set of laws which were known as Hammurabi’s codes. They established fair wages, offered protection of property and required charges to be proven at trial. Assyrian laws, Hittite laws and the Dharma of the Vedic period in India also devised different sets of standards by which obligations of one were provided to another. The major religions in the world also have a humanitarian perspective that upholds human rights.

Human rights can also be found in ancient and philosophical thoughts of natural law and natural rights. Plato (427-348) was one of the earliest thinkers to profess a universal standard of moral conduct. According to the Roman jurist Ulpian natural law are those which nature the and the State ensure to all human beings. The Republic (C. 400 B.C.) proposed strongly about universal faith and truth which must be recognized. People are expected to work for achieving a standard common good. Aristotle (384-322) wrote in politics that justice, virtue, and rights are dynamic in nature. They occur differently in different times and situations. They also change according to various constitutions and circumstances. Cicero (106-43 B.C), a Roman statesman laid down the foundations of natural law and human rights in his work. 5. Dr. H.O Agarwal, 2004, Human Rights pg 3.

Sophocles (495-406) was one of the first thinkers to evaluate the idea of freedom of speech and expression against the state. Stoics deployed the concept of moral values of natural law and enumerated a step ahead of laws that were similar to nature and which were to serve as standardized enactments for the society and government.

The ancient Indian literature including Vedas and Upanishads emphasis that divine truth is universal and religious belief must be a way to lead a contended life. The importance of social obligation and good conduct towards other fellow members of the society and those in need, are the prime considerations of the Indian philosophy. They also stress on fulfilling earthly duties towards all people beyond oneself and one’s family. Indian culture also professes to practice selfless service to society, and concern for the needy. Indian culture advocated that concern and service should be given to the unfortunate and helpless victims of unfortunate circumstances. These principles highlight the recognition of Human Rights and Fundamental freedoms.
Rousseau, undertook to explain that the State was an artifact, that is, an artificial creation of individuals, or a result of the social contract. He began with the State of Nature wherein a man was free and independent in all respects and from this state of nature emerged a political society due to separate act of individuals, whereby they undertook with one other to set up a government which would be responsible for promotion of their common interests. The social contract theory was another cause which survived the conception of human The expression ‘fundamental rights of man’ was stated in the declarations and constitutional instruments of many states. Since the beginning of the 19th century it was recognized by the constitutional law of many States that human beings possess certain rights. Worth of the human personality began to be realized.

Although the expression “human rights” emerged after Second World War in International Charters and Convention, its concept is as old as the ancient doctrine of “natural rights” founded on natural law. As early as when man became civilized life it was realized and asserted there were rights such as right to personal liberty, security, and property. These rights were superior to those rights which were created by the authority.

These natural laws could not be violated by any State authority. Later, these rights were codified into Constitutions, International Conventions and Human Rights Acts. The term natural law was replaced because the concept of natural law had become a matter of great controversy and the phrase ‘the rights of man’ was found unsuitable as it was not universally understood to include the rights of women.

The concept is basically a western concept and it is imposed on the South Asian III World countries. The concept ignores and does not recognize the complex realities of the III world countries. For e.g. Gender equality, this is quiet inconsistent with the demands of Indian value system. It can be argued that men and women can never be treated at par in every respect as the conditioning situations of both the sexes are not alike. Also the physical, biological and psychological demands are not the same. Hence progressive substitution of the term, 'gender equality' by 'gender compatibility' should be preferred.

The framers of the Indian Constitution were much influenced with the deliberations made by the universal declaration of human rights. They incorporated most of the rights enumerated in the Universal Declaration of Human Rights. Our Constitution has successfully incorporated them in the form of Fundamental Rights in its Part III consisting Articles from 21-35. Human
Rights have also found their way in the Directive Principles of State Policy, Chapter IV. While the Fundamental Rights guarantee the rights and liberties of the individual against unreasonable and arbitrary action of the State, the Directive principles provide for attainment of certain economic and social goals of the individuals.

Thus, the status of Human rights has been placed in a high pedestal in the Indian Constitution on almost all the aspect like civil, political, social, cultural and economic rights. The fundamental rights guaranteed under the Indian Constitution have also been observed by the Supreme Court as a modern name for what have been traditionally known as “natural rights”. But it is felt that the Constitution has failed to make it operational against the anomalies emanating from the traditional social forces.

The Supreme Court has helped in evolving the fundamental rights into human rights by broadening the scope of Article 21 to encompass virtually everything which makes the life of a human being worth living.


It is observed that the judiciary has been successful in protecting and preserving the human rights of the people, yet it needs to be pointed at this juncture that a major task remains unaccomplished. Many sections of the society are still to be covered under this protective umbrella. A large part of the society is being put to hardships in their entire life time and is not protected at any time. They also must be treated as human beings and with equality. They remain neglected and outside the purview of the phrase of Justice, Social, Economic and Political of the Preamble. The girl child labour as domestic help constitutes the major part which has to be protected as she is to attain womanhood in future. To achieve this goal we need to provide social security to the girl child labour as domestic help.

5.4. GHANDHIAN VIEW ON HUMAN RIGHTS:

A society’s well-being can be judged by the rights guaranteed to the members of the society and not by preferences that are satisfied or the needs that are fulfilled. The principle that every human being is entitled to certain rights is an idea which has been personally discussed by many philosophers. Mahatma Gandhi became known by his doctrine and practice of non-violence, which he advocated to the whole world. Gandhi’s techniques and practices reflect the fundamental elements of human rights. He not only preached but also practiced these principles which are sanctions of authority and of public policy and they rest in the respect for the dignity of the individual and welfare.

Gandhi was endowed with a clear vision of human rights and human values. Gandhi’s movements were designed to represent those values that are considered to be the most important for human development and existence in any era. His thoughts and principles are capable of being applicable everywhere on the earth equally. Gandhi’s aim was to place human being at the center of values, all actions and all philosophies. According to Gandhi nothing was beyond human life and life and history had no purpose beyond how the human beings give meaning to it and all actions were to be dominated by human concerns.

The spirit of human rights in the Gandhian ethics and values is not restricted merely to the usage of the term human rights per-se; rather there is an undercurrent of the philosophy of human rights in the work and words of Gandhi. The central evils against which he fought were racialism, imperialism, communalism and untouchability. He also fought against social injustices, tyranny and oppressions. He believed in the ethic of non-violence as the highest manifestation of human equality and human rights. In his campaign for abolition of untouchability, he explicitly and repeatedly appealed to the basic principles of giving equal rights to all human beings. He was the one who stressed upon the people to do Sharira-Shrama (bread labour), observe Sarvatra-bhayavarjana (fearlessness), practice Swadesi (love & use of things made by persons nearest to oneself), Sparsha-bhavana (removal of untouchability), Sarva-dharma-samabhavana (equal respect for all), thus gave to the world moral principles which would form a solid base for preserving human rights and lasting world peace.11

Gandhian philosophy encompasses the real spirit of human rights. He stood for non-violence and truth which not only promoted respect for the human rights of others but also aimed at the development of the self in a way conducive to attain higher moral order. He stood for an
ideal social order which did not distinguish between high and low. He though aimed to achieve human rights through the political rights but at the same time also felt that political freedom had no meaning unless people are economically uplifted. A real egalitarian society based on mutual love and harmony was his goal.


It was because of such qualities that a document as significant as Universal Declaration of human rights (1948) enveloped Gandhian values which intended to offer a uniform standard of achievements for all nations. The Indian Constitution is also framed in a way so as to uphold Gandhian ideals.

5.5. HUMAN RIGHTS, HUMAN DEVELOPMENT & EXPANSION IN THE DOMAIN OF HUMAN RIGHTS:

The human rights guarantee economic, social and cultural rights to all human beings and also assure minimum necessities of life to human beings, lest the existence of human being is likely to be endangered. The Human Rights include right to adequate food, clothing, shelter and a decent standard of life. They are also inclusive of right to work, right to social security, right to physical and mental health and right to education.  

Human Rights are universal rights which belong to all human beings, including children. Children, adolescent, young people enjoy human rights specifically linked to their status as minors and to their needs for special care and protection. The girl child is particularly vulnerable to certain human rights violation and therefore requires additional protection.

These rights require active intervention, not abstentions on the part of states. The enjoyment of these rights requires a major commitment of resources and therefore they cannot be immediately realized with regard to civil and political rights. These rights are based fundamentally on the concept of social equality. The UN Convention has recognized the economic, social and cultural rights. They are internally dependent with civil and political rights. They have been given recognition by the International Human Rights Conference held in 1968. This Conference declared in its proclamation that human rights and freedom are indivisible and it is not possible to enjoy the economic, social and cultural rights without realization of civil and political rights. The respect and dignity of all human beings is based on
Human Rights. They are ethical principles inscribed in a country’s constitutional framework. Human rights are vital for the well-being of every person on the earth.

Hence child development and human development are closely linked. Early child development means combination of physical, mental and social development. The development of each child will depend on how the nation encompasses him in its values and protects him by formulating various laws that would help achieve his desired standard of living.

"Every child when born brings with the hope that god is not yet disappointed with man"- Rabindranath Tagore. The words recognize the fact that all children constitute the most fundamental and valuable in nature they are often subjected to various kinds of exploitations. Millions of children have no access to education, work for long hours in various types of hazardous and non-hazardous occupations for survival.
They are deprived of healthy nutritious diet and right to play. At the age when they should be in school majority of them are at work.

---


We have come a long way since the time of the American Declaration of Independence in 1776 and the French Declaration of the Rights of Man of 1789. There has been a huge expansion in the domain of rights by including economic and social rights. These expanded human rights can be categorized in three generations.

First Degree of Human Rights: These include liberty and political participation. These rights protect the individual from tyranny of the state. These Human Rights include freedom of speech and expression, the right to be heard, freedom to profess ones own religion and right to vote. All these rights can be termed as liberty rights.

Second Degree of Human Rights: These are derived from the concept of liberty and equality and are based on the principles of social justice and public obligation. They include rights that provide just and favourable conditions of work, protection against unemployment, right to equal pay, the right to free elementary education, the right to food, clothing, housing, medical care and necessary social services and the right to special care for assistance for mother and children.

Third Degree of Human Rights: These are rights extend more rights than civil and social rights as extended any International Declarations. They protect all the natural rights which remain uncovered by the laws of any nation. The Third Degree of Human Rights strives to fulfill maximum desires of the human beings. They would be helping the nations in legally binding the less deterrent laws into deterrent laws so that the promises of sovereignty, equality and liberty could be upheld. The third degree of human rights remains as unofficial rights and creates a very broad view of rights, extending to collective groups. They also include the right to self-determination, right to a healthy environment and right to natural resources.14

Like all of the fundamental rights are human rights, the right to social security must also be considered as a human right and India is under an obligation to provide for it to all its
citizens. We must strive to bring in legislations which will provide social security to all the workers belonging to unorganized sectors.


The Universal Declaration of Human Rights holds special status as an instrument of human rights. It proclaimed that all nations shall strive to promote education to every individual of the society. It also proclaimed to extend respect for their rights and freedom by advanced means. The Convention on the Rights of the Child strengthens the right to social security with regard to children. It provides that it shall be the duty of the states to recognize the right to social security for every child. The social security laws shall include social insurance and required steps should be put forth for the maximum realization of these rights in accordance with the respective national laws. It also includes the provisions to attain a sustainable standard of health and living. It is thus the foremost duty of each nation that they make efforts to formulate such policies that would benefit the children in contributing their optimum capabilities for the nation.

India being a democratic society fundamental rights and freedom as guaranteed to all its citizens by the Constitution itself and their protection is the duty of the State. These rights are classified into civil, political, social, economic and cultural rights. The right so included in the Constitution aim at making the individual self-sufficient, active, purposeful and valuable contributory member of the society.

The classification of these rights appears to be less real and more dialectical. The civil and political rights are in the form of injunction against the governmental authority so that the inalienable freedoms and rights of the individuals are not encroached upon whereas the social, economic and cultural rights are in the form of demands to the States to create opportunities and positive conditions for the members of the society to exercise their civil and political rights. It is thus clear that unless all these rights are made available to the individuals full development of human personality cannot be achieved and also the true meaning of democracy cannot exist. But it can be noticed that social, economic and cultural rights are not achieved to the maximum level.
The Indian Constitution has incorporated social justice as its prime aim. The concept of social justice is dynamic and relative and tends to change from time to time and place to place. It is a very generous concept and if any member who suffers injustice and inadequacy of human rights the concept of social justice can be invoked. Hence social justice is the basis of progress of any society for it to be stable and Article 21 of our Constitution is a part of this social justice. Social justice provides for human dignity by ensuring social, economic and cultural rights. The political freedom shall have no significance if the members of the society suffer from social, economic and cultural rights. The concept of Human Rights revolves around the social, economic and cultural rights. They provide sustenance to rule of law and true meaning to welfare state.

**UNIVERSAL DECLARATION OF HUMAN RIGHTS, 1948:**

“EVERY ONE HAS THE RIGHT TO WORK,

TO JUST AND FAVOURABLE CONDITIONS OF WORK AND TO PROTECTION FOR HIMSELF AND HIS FAMILY AND AN EXISTENCE WORTHY OF HUMAN DIGNITY,

EVERYONE HAS THE RIGHT TO A STANDARD OF LIVING ADEQUATE FOR THE HEALTH AND WELL-BEING OF HIMSELF AND HIS FAMILY,

INCLUDING FOOD, CLOTHING, HOUSING AND MEDICAL CARE.”

The Preamble of the Universal Declaration has incorporated the inborn qualities of human beings as a form of natural law. These qualities are inalienable rights and are recognized as inherent rights. They are the foundations of human equality and liberty. They provide justice by law and freedom in its natural state. The Preamble is a proclamation of attainment of minimum standards of living of all the people and all nations ratifying to the Declaration. The Universal Declaration of Human rights enumerated basic principles of human rights and gives equal importance to civil and political rights along with social and economic rights.

Article 22 of the Declaration states that, it is the duty of the States to ensure right to social security to every member of society. The State shall make efforts for realization of the rights in cooperation with international organizations and available resources. The state shall make laws to protect economic, social and cultural rights as well as his dignity and also help him grow freely by developing his personality in his own desired manner.
Article 23 states that, every member nation is to secure the right to work, right to free desired employment, right to just and favourable conditions of work and protection against unemployment to every individual of the society. The right to form and join trade unions also should be ensured to every worker as that they can protect their own interests against the State as well as against the society.

Article 24 states that the right to rest and leisure along with regulations of working hours and regular periodic holidays with pay must be assured to every worker.

Article 25 states that everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or lack of livelihood in circumstances beyond his control.\textsuperscript{15}

The Declaration under Article 29 laid certain limitations to the rights and freedoms, by stating that everyone has a duty to be perform towards the society by which an overall development of an individual’s personality can be achieved. Para 2 of Article 29 provides that individuals should be given rights according to the requirements of morality and general welfare. Thus the rights enshrined in the Declaration are not absolute in nature.

Hence from the study of the Universal Declaration of Human Rights it is observed that there are two sets of rights recognized by the UDHR. The first set of rights can be also termed as traditional rights and they are the civil and political rights. The second set of rights is an extended part of the traditional rights and they are the economic, social and cultural rights. All these rights are equally important for an overall growth of any individual. Majority of the governments support for equal status of the economic and social rights and failure to enshrine these rights in the national constitution shall amount to abuse of the Human Rights.

\textsuperscript{15}Texts prepared within the United Nations, Universal Declaration of Human Rights, Adopted by General Assembly, Resolution, A/RES/271A(111) of 10 Dec 1948, pg. 11.

\textbf{5.6. INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, 1966:}
Article 2 of the covenant has stated that, each State Party to the present Covenant shall undertake the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant. The State parties shall adopt such legislative or other measures as may be necessary to give the required effect to the rights as recognized in the present Covenant.

Article 5 has very clearly stated that, the covenant may not be interpreted by any State, group or person any in any negative sense so that any right to engage in any activity or perform any act aims at the alienation of any of the rights and freedoms recognized by the covenant. The State parties shall not impose any limitations upon the citizens of its country only in accordance with the Covenant.

The Articles mentioned above find no place in the constitution of India. India has though ratified to the covenant yet, have reserved its rights apply the law in accordance with Indian laws. With reference to economic, social and cultural rights the Government of the Republic of India declares that the provisions of the said Articles shall be so applied to be in conformity with the provisions of Indian Constitution. It has been observed by the researcher that the Covenant though ratified by the Government of India it could not include all the Articles through various legislations. Certain Articles have been already been included in the Indian laws and hence they would be applied in conformity with the provisions of the law of the land.

5.7. INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, 1966:

This Covenant is specifically for the protection of economic, social and cultural rights of the people. The Covenant confers equal right to men and women to enjoy all economic, social and cultural rights as provided by the Covenant.

Article 6 recognizes the right to work, which includes the right of every citizen to gain opportunity to achieve his living by working freely, as he chooses and accepts. The State in this regard shall take appropriate steps by making sufficient laws to safeguard the right. The covenant encourages the State Parties to achieve the full realization of this right shall include technical and vocational guidance and training programs, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental, political and economic freedoms to the individual.
Article 7 states that favourable conditions of work and enjoyment should be ensured along with a minimum fair wage and equal remuneration for the similar work performed by men and women. No distinction should be made with regard to women, for guarantee of conditions of work not lesser to those given to men. Provisions for a decent living for themselves and the families and self should be assured in accordance with the provisions of the Covenant. The Covenant also emphasizes on safe and healthy working conditions.

Article 9 recognizes the right of social security. The article also includes the right to social insurance.

Article 10 recognizes optimum protection and assistance to every family as they are recognized as natural and group unit of the society. It is also responsible for promoting and educating the children. Special measures for protecting and assisting the children and young persons without any discrimination should be taken. It is the duty of the States to stop social and economic exploitation of children and young persons. Their employment should not be harmful to their moral, health or likely to be dangerous to obstruct their normal development. Such employment should be punished by law. Setting of minimum age of employment of a child is necessary so that exploitation can be avoided. Such abusive and exploitative employments should be taken up with seriousness if we have to save the future of the nation.

Article 11 states that the State Parties are under obligation to secure a minimum standard of living for himself and his family, which shall include sufficient food, clothing and shelter. They shall also ensure an improvement in the present conditions of his livelihood.

The Covenant on economic, social and cultural rights has recognized all the rights of the human beings including the right to social security. The Indian Government has although covered and included all the rights under the various legislations yet, it has not yet recognized the right to work as fundamental right. Also the right to social security does not find its place in the fundamental rights. Thus since they are only recognized as rights they cannot be enforced to the maximum benefit. Moreover the two rights, one of right to work and the other, the right to social security are in the category of directive principles which not enforceable and are only vital in the governance of the country. It has also been observed that the Indian government has failed to apply the present laws to everyone who is working or employed and hence the laws are applicable only to the organized sector and the large unorganised sector has remained out of the purview of all the existing legislations.
5.8. MINIMUM AGE CONVENTION NO 138, GENEVA, 26 JUNE 1973:

This convention was adopted by the States ratifying the convention were to be bound to pursue a national policy designed to ensure the effective abolition of child labour or to attain a level of work consistent with the physical and mental development of the children. The sole convention by the ILO in this regard has been a ray of hope in the direction of protection and regulation of domestic workers but the convention has focused only on the general provisions regarding the general category of workers and has left out the special and weakest section of workers, the girl child out of its purview.

Article 2 states that each member has to a minimum age for seeking employment where in no person under the minimum that age shall be employed to any work in any occupation. The minimum age specified should be the age not less than required to complete of compulsory primary education which should be not less than 15 years. Article 3 it also sets 18 years as the minimum age for seeking employment. No work shall be allowed which would apparently harm the physical and mental development of the child.

Article 6 of the convention clearly states that this convention shall not apply to work performed by children and young persons in educational institutions for the purpose of vocational or technical education and training. Also work performed by persons of 14 years of age in undertakings with the permission of the organizations of employers and workers concerned such type of work should not be termed under the label of child labour.

The Human Rights Conventions also does not ratify the minimum age for admission to employment. There is also no explicit reference to the situation of girl child labour as domestic help as a special cause for concern. Child domestic worker need effective laws and regulations as well as protection mechanism which are tailored to the unique nature of work, age, employment conditions and their special needs. There is also no mention of providing social security schemes to the girl child labour as domestic help.

We have neglected their important contribution to their employers, household and the global economy. They have been widely discriminated and excluded from labour laws due to isolation and the invisible nature of their work. Human rights Conventions also have no provisions with regard to providing equal treatment with other workers, in working hours, overtime compensation, and daily and weekly rest periods. It proposes for education of children but has no specific mention for the girl child or to set a minimum age for child
domestic workers and to ensure that work by domestic workers above that age does not interfere with their education.

5.9. CONVENTION ON RIGHTS OF THE CHILD-ADOPTED BY GENERAL ASSEMBLY RESOLUTION A/RES/44125 OF 20 NOV 1989:

The Convention of Rights of the Child states that a child means every person below the age of 18 years unless otherwise mentioned in any law applicable to the child, or if majority is attained earlier. Article 20 makes it clear that the family of the child must be provided favourable environment.

Article 26 states that the State parties shall take necessary steps to achieve their rights of social security which is a right corresponding to the natural rights. It also ensures appropriate benefits and the states responsibility to maintain the child and provide with considerations applicable to them.

Article 27 states that the child should be provided a standard of living which shall be sufficient and appropriate for the child’s mental, physical and social development. Article 28 confers the right to education to every child at least up to the primary level.

Article 32 is very clear with its provisions that the States shall protect the child from economic exploitation. The child also should be discouraged from performing such work that would interfere with his educational advancement. It is also the duty of the State to take appropriate measures towards mental, social and physical progress and development of the child. The Article also casts a duty up on the States to make laws and such administrative arrangements towards the implementation of the Article.

The Convention on the Rights of Child does not lay down any procedure for individual complaints from children or their representatives. The Convention bears provisions regarding exploitation of child labour and seeks to prevent all forms of exploitation which are against the welfare of the children. The convention fails to mention the type of work performed by the child labour as exploitative or hampering the physical, mental, spiritual and social development of the child. The convention also does not speak about the most popularly performed work, the domestic work, done by the child or to be more specific, the girl child. In spite of the provisions mentioned in the Convention the child continues to be the victim of human rights and the Member States neglect their rights due to lack of humanism.
5.10. DOMESTIC WORKERS CONVENTION; 2011, NO 189, ILO:

Throughout the world thousands of children are working as domestic helpers, performing tasks such as cleaning, ironing, cooking, minding children and gardening. This phenomenon is regarded positively as a protected and non-stigmatically type of work and preferable to other forms of work, especially for the girl child. The perpetuation of traditional female roles and responsibilities within and outside the household, and the perception of domestic services as part of a women’s apprenticeship for adulthood and marriage, also contributes to the low recognition of domestic work as a form of economic activity of child domestic labour as a form of child labour.

Article 7 of the convention states, the member States shall take steps to ensure that domestic helpers should be informed of the terms and conditions of employment. They must be appropriate, verifiable and easily understood. These terms of employment should be through written contracts and in accordance with laws of the country. They should be regulated through collective agreements between the employee and the employer as follows:

1. The name, address of the employer and the worker.
2. Address of the usual workplaces.
3. The commencement date and where the contract is for a special time, its duration
4. The type of work to be performed
5. The remuneration, method of calculation and periodicity of payments
6. The normal working hours
7. Paid annual leave, daily and weekly rest periods.
8. The provision of food and accommodation, if applicable.
9. The period of probation or trial period, if applicable
10. Terms and conditions relating to the termination of employment, including any period of notice by either the domestic worker or the employer.

Article 9 states that the domestic workers should feel free to make agreement with their employer or potential employer. The Article also ensures to those domestic workers who reside in the household of their masters may not be forced to remain in the household. They must not also under any compulsion that they remain in the household during periods of daily and weekly rest or annual leave. However the convention allow the employers are entitled to keep in their possession their travel and identity documents.
Article 13 assures every domestic worker a right to safe and healthy working environment. Each member State shall make laws in accordance with national laws, regulations and practices. The members shall take appropriate measures while keeping in mind the specific characteristics of work and ensure the employment safety and health of domestic workers.

Recommendations by ILO urges the governments to limit strictly the working hours of the child domestic worker and to prohibit domestic work that would harm their health, safety and morals, which would help improve working conditions for child domestic helpers and give them a chance to pursue an education and break out of poverty. Human Rights also ignores guaranteeing the child domestic workers ability to work with dignity and freedom from violence and has systematically denied them valuable protection which their age demands.

5.11. CONVENTION ON WORST FORMS OF CHILD LABOUR, 15TH JUNE 1999:

This Convention aimed adopting new instruments for the prohibition and elimination of the worst forms child labour. It shall be the priority of national and international action to include international cooperation and assistance, so that the convention and its recommendations be confirmed. The minimum age for employment should be renewed as fundamental instruments of child labour. The Convention shall consider effective measures for elimination of the worst forms of child labour and this requires an immediate and comprehensive action. Account should be taken of the importance of free primary education. The Conventions also stresses the need to eliminate the children from all such work their development. It also ensures their rehabilitation taking consideration of the needs of the families of the child.

The Convention also provided for the competent authority, after consulting the organization of employers and workers concerned shall identify where the types of work so determined exist. The convention is very clear on the issue to provide necessary and appropriate direct assistance for removal and rehabilitation of child labour and social integration, ensure access to free and basic education, vocational training for all child labour, removal from child labour identity and reach out to children at special risk and take account of the special situation of the girl child. Keeping in parlance with the conventions of the UN, The Indian Government passed many acts for the benefit of children, but they seem to be insufficient and non-conversant with the Articles. Various laws and enactments formulated by the State fail to secure the future of the child labour regarding providing social security to him.
The States also lack in thoughtfulness to enact precise laws for the benefit of the girl child labour who has by nature certain special features which need special attention, protection and security. No mention has been about the vast unorganized sector of the domestic workers, with special reference to the girl child labour as domestic help. They still remain neglected and it shall be the duty of the States to make collective efforts in formulating laws for the girl child labour who is the important element of the society.


During the study it has been observed that India’s performance regarding the ILO Conventions on social Security is not very promising. India has ratified only a few conventions such as Maternity Protection Convention 1919; Night Work (women) Convention 1919; White Lead (Painting) Convention 1921 and Workmen’s Compensation (Accidents) Convention 1925.

It is thus observed that out of almost 20 ILO Conventions on Social Security India has ratified only 4 which are surprising and not satisfactory. The Government also does seem in a hurry to ratify to other Conventions so that sufficient laws with regard to Social Security can be formulated in favour of other sectors of employment.

The Government must realize its duty in translating the spirit of IOL through formulating various enactments, legislations, administrative practices and agreements. The researcher has observed that very few conventions are directed towards the issue of child labour and it can be pointed at this juncture that the girl child labour as domestic help has been neglected as well. The need is to think over the issue of girl child labour as domestic help so that their work could be recognized and their right to social security be secured.

5.12. ILO Convention on Decent Work for Domestic Workers on June 10th 2011:

The Convention has established the 1st global standards for domestic work. The ILO study reveals that children being working as early as age 6 and work up to 16 hours a day and 7 days a week. They are also paid poorly and vulnerable to physical and sexual abuse which is invisible to the outside world. This convention would require the governments to include these child domestic workers under their labour laws and to step into present laws to prevent them from being exploited.
According to the Human Rights Watch, more girls are in the domestic labour work force than in any other kind of work. The Convention has recognized that their tasks include, cooking, cleaning, shopping, washing and ironing cloths, and caring for children and elderly persons of their employer’s household. The Human Rights Watch also observed that they are paid low even below the minimum wage or not paid at all. They work in private homes and many report sexual harassment and abuse in the household of the employers.

The ILO Convention would require the governments to protect the domestic workers from violence and abuse and provide equal treatment with other workers. It also emphasized on prescribing and setting minimum age for domestic work and ensures that work by child labour as domestic help above that age does not interfere with their education. It also suggests to strictly limit the working hours and to prohibit domestic work that would harm their health, safety or morals.

The Convention has dealt with almost all the issues relation to child labour domestic work but has left out the issue of providing social security to these child workers as domestic workers. The Convention fails to recognize that economic independence would lead better prospects to this section of the society. The Convention has made it compulsory on the signing countries to adopt strictly the provisions of the convention but it will not be sufficient to curb physical abuse and harassment. It shall also not be enough to provide and regulate minimum wage structure, limited working hours, overtime rates etc. It shall not be sufficient to uplift the standard of living of the family of the girl child labour as domestic help.

There is need to provide social security and to protect the future of the girl child labour so that they could lead a dignified life. It is important that the need for providing social security should be recognized by the Human Rights. The Convention also fails to provide a decent work for the girl child labour as domestic help. The Convention has also not been able to develop instruments that address the special condition in which the domestic work is carried out and also strengthens social security for the girl child labour as domestic help.

The Convention only speaks about abuses and exploitation-physical and sexual but, has not touched the issue of social security. It has agreed that this group of workers is vulnerable and needs to be provided protection, but does not mention the need for social security protection. The Convention has mentioned the need to provide specific legal guidance to protect the rights of the child labour but has not felt the need to provide social security by taking into consideration the unique circumstances of the girl child labour as domestic help.
5.13. RIGHT TO SOCIAL SECURITY- A UNIVERSAL HUMAN RIGHT:

Guarantee of right to social security as a human right reinforces significance of human rights irrespective of earning capacity or market value of efforts of an individual. The study of the right in the Constitution reinforces importance of the right in the Constitutional scheme. Though the Indian Constitution does not explicitly refer to the right to social security, Article 41 conceptualizes social security as “The State shall, within the limits of their economic capacity and development make effective provisions for securing the right to public assistance in case of unemployment, old age, sickness, disablement and other cases of undeserved wants.” It also refers to right to work and education. So also Article 39 (a) proclaims right to adequate means of livelihood. Accordingly the Government has made legislative measures relating to the said Articles which could be termed as social security legislations such as: The Employees State Insurance Act, 1984, Employees Provident & Miscellaneous Act, 1952, Workmen’s Compensation Act, 1923, Maternity Benefit Act, 1961, Payment of Gratuity Act, 1972, etc.

The International overview also reflects the indispensability of social security in the scheme of Human rights. Moreover, the identification of minimum indicators and core obligations in international human rights jurisprudence extends helping hand in realizing the rights as a universal right. The right to social security needs to be recognized as universal human rights in order to liberate human life from any qualification of market. To restore the value of human rights it is inevitable to take it away from clutches of economic or social argument.

A deliberate effort should be made for developing social security policies for different sectors and categories of populations of the society such as the old generation, the retrenched workers, women and child workers in both the organized and unorganized sector. The concept of social security is though not new to our country; the need is to find for new polices schemes, frameworks and agencies of social security. Initially we had an effective structure for economic, social and emotional security by way of joint family system. The craft community, guilds, and other institutions including individuals and occupational groups were all associated with each other. To bind them the government has a structured system called
the panchayat. But the situation created by the industrial revolution broke these joint families into nuclear family. This has made it necessary to find new ways to provide social security.

Primarily we must try to find out and keep in line with the aims and objectives which we must adopt in the field of social security. We must also define and identify the ingredients of social security in the modern context. It must be decided the means that would enable us to achieve the wide scope of social security. We must try to build up the infrastructures that will help us secure the services which we must originate from required resources. The resources and schemes of social security must be so that the citizens could enjoy the freedom desired by them.

Accordingly the Constitution has characterized the states as democratic and socialist; enshrined in the Preamble and Directive Principles which are vital for the governance of the country. The Constitution of India has defined and described State as democratic and socialist which are important to achieve equality and liberty. It is the duty of the socialist state to promise through its responsibilities to provide for social security to all its citizens. The State shall also not discriminate while providing social security.

The citizens are guaranteed fundamental rights including the right to life which also includes right to livelihood. The ultimate aim of social security laws should be to ensure right to decent living. The principal object of a socialist state is also to provide equality of income and status to the working force. Social security is also necessary for securing protection, development and maximum use of human resource. It can prove to the best investment in the development of human resource.

The world Development Report of 1997 has held the view that social security is an important ingredient towards protecting, developing and utilizing the human resource to the optimum and it should be positively thought as an investment towards human development. The social security programs and schemes must aim at providing goods and services and not issues of human choices. Unemployment is the worst disaster and should be included under the schemes of social security.

Though the basic need of human being is security of sustenance, yet people strive to be free from recurring threats, such as diseases or depression and sudden disruption which are harmful in their daily lives. Human development and social security insist upon that every person must attain and enjoy a minimum level of social security. The schemes and programs
related to social security must be area based and requirements of the people of the particular area.

5.14. SOCIAL SECURITY AS FUNDAMENTAL RIGHT:

If we agree that there is an integral relationship between employment and livelihood then inclusion of social security as a fundamental right will be justified. But the question arises that whether we are ready to bear the financial burden at this point of time? But to make a start for including social security as a fundamental right, we can incorporate it in the chapter of Directive Principles of State Policy. By doing so the state will not be over burdened with economic issue and they will provide for minimum social security necessary to protect the society for disintegrating, socially, politically and economically.

To be precise the social security system in India is very ambiguous with regard to policy, responsibility and accountability. There are many schemes, programs and policies framed at different times and hence they do not confirm or direct any specific design or plan, benefits or protection in a particular direction. They also do not confirm any designated future plans. It is thus observed that the government itself is not confirmed about any definite plan, policy or schemes of social security for the unorganized sector and hence it can be said that the Indian Constitution does not visualize the urge or the need for social security.

According to United Nations Development Program, a sense of insecurity is the inherent quality of humans because they are exposed to all types of risks and dangers. The most sense of insecurity arises from worries about daily life. Will there be security of job? Will they and their families have the basic necessity of food? Will they lose their jobs? Will their family members be employed to earn bread? What would happen if one falls ill? These are all the questions that remain unanswered for the worker in unorganized sector.

The Constitution of India has not given a deep thought towards all the working force in the country. The present social security laws tend to cover only those workers who are registered and enrolled on the musters of an employer in a scheduled employment, but what about the workers who have no such registration facilities? Are we not going to even think about these workers in terms of their social security?

Though the Constitution of India has under its Chapter IV embraced principles and polices relating to social security which are to be followed by the state in future when it would be expedient, just and proper to incorporate legislation for the working class in the country.
Accordingly Article 38 (1) of the Constitution ensures that the state shall endeavor to promote welfare of the people in which justice, social, economic and political shall inform all the institutions of national life. Article 38 (2) ensures that the state shall, particularly try to reduce income inequalities, facilities and opportunities, of the individuals and groups according to different localities and the different type of work performed by them.

Article 38 of the Indian Constitution provides that the state shall make such policies which would help secure equality of rights to attain sufficient means of livelihood. The Constitution directs to transfer the ownership and control of necessary resources of the society so that they can be utilized for achieving the common goal. It also provided for equal pay for equal work for both men and women. For this purpose the physical health and strength of workers, the age of children was to be taken in to consideration. It was the duty of the state to ensure that the workers are not forced to work under compulsion of economic need and the process their physical strength is at stake.

Keeping in tune with the Constitutional provisions the States have made adequate efforts to enact legislations according to wishes of the Constitution. There are various social security legislations in India such as The Employee’s State Insurance Act, 1948, The Maternity Benefit Act, Beedi & Cigar Workers (Condition of Employment) Act, Working Journalists & Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955, The Provident Funds Act, 1952, The Payment of Gratuity Act, 1972, The Workmen Compensation Act, 1923, and many other national schemes.

According to the above facts it is clear that the Constitution of India has kept the unorganised sector out of the provisions in the various Articles. The provisions of the Constitution do not have the broad view so that it could include the whole work force of the country. All the labour legislations and social security legislations include the organized sector and leaves behind the unorganized sector which constitutes the larger part of working class. To make the special mention of the girl child labour as domestic help is totally neglected in spite of the Articles under the Directive Principles of State Policy. The State governments have never made efforts to make policies, schemes and laws pertaining to safety and social security of the girl child labour as domestic help.

All the present acts represent and regulate the organized sector workers. There is mention of child labour in many acts but they also are those children who work in the organized sector establishments. The working conditions, working hours and terms of employment of these
children are regulated by the existing acts. But nothing is thought about the child labour in the unorganized sector. The irregular working hours and lack of applicability of minimum wages Act has made the situation of the girl child labour more miserable. It is thus very important task to be taken up by the law makers to formulate special laws keeping in mind the girl child.

The provisions regarding them are prohibitory at all levels and working for them is inevitable. Children are found working in the largest domestic sector as domestic help in which the girl child labour constitute the most in number. They are paid less, their working hours are not fixed, they have no security for job, they have no security of future and hence they have no social security. The Constitution though has directed the States to make laws in respect of social security and the judicial activism has also made conscience efforts to give Article 21 a wider meaning yet it is observed that the economic conditions of the states does not allow them to make laws for the unorganized sector so that they can be covered under the umbrella of social security.

Thus it is observed by the researcher after studying the Constitutional and labour legislative provisions that there are various laws that regulate the child labour and their employment, but these laws have revealed several legal and procedure loopholes. The laws are very limited in scope and do not cover all occupations and processes where children are working. The Acts cover only those occupations which are hazardous. They exclude these children who work in family business/enterprise and the domestic helpers who work in different homes doing the work of household chores and work incidental to house work. It is also observed that the child labour is seen employed in enterprises and industries, outside the house, within the houses for wages or to help in domestic chores or family occupation. Hence they need to be regulated and provided with social security.

It is also observed that the law does not recognize the child as an individual being of the society. The law seems to neglect the fact that the child also has all the rights which a grown-up has as provided by the Constitution of India and other laws of the land. The child is also not the focus of the Acts instead all the Acts focus upon the establishment, employer, administrative procedures but none of the enactments focus on the child, child labour, their employment conditions or even their rehabilitation or educational opportunities. The Welfare fund created for the child by the Supreme Court pronouncement in M. C Mehta V. State of Tamil Nadu also seems to be a failure because the acts are silent on the issue that what will
be the future of the child labour where the employer is prosecuted. The Acts also remains silent on rehabilitation of such child labour.

5.15. CHARACTERISTICS OF SOCIAL SECURITY:

Taking into consideration the various forms and contents of social security we can identify certain characteristics of social security. Firstly social security provides cash benefit and medical relief to the workers under specified conditions. These benefits are paid by way of right. It is a payment to relieve from temporary or permanent pressures of social, economic or political circumstances. State participation and contribution is a necessary and important element of social security. Legislations pertaining to social security laws control the qualifying conditions for such benefits to the labour class.

The concept of welfare State in the modern world has made it important on the part of the government to intervene and mediate between the employers and the employees, on the subjects of formulating legislations on the issue of social security, to supervise whether the schemes are being implemented in accordance to the aims and objectives aimed by the law and by way of contributing financially towards the benefits. But it is observed that in India the social security laws are very scanty and limited and do not cover all the areas of security of the workers even in the organised.

The contributory characteristic is also reflected on in the Employees Provident Funds Act, 1952 and other all Acts cast the responsibility on the employer itself. And more over the unorganized sector does not find its place in any of the legislations where in the girl child labour as domestic help has no recognition either socially or legally. This neglect has made her position very critical in the society. She neither feels secure socially nor legally and economically. Her fate is left to herself and nobody thinks about the services she provides and she should be given not only physical security but also social security.

5.16. MODERN CONSTITUENTS OF SOCIAL SECURITY:

It is observed that after the industrial revolution the need for social security was felt with more than before. The workers became wage earners and depended totally on the wages which was the result of alienation from agriculture and destruction of joint family system and family business in which the members were secure in all respects. The families divided
between the rural and the urban areas had a tough time for survival and finally they fell to the industries growth and became industrial working class.

With the growth of industrialization and capitalism there came in the problem of unemployment which lead to the need of social security to the workers. Labour laws were formulated with the view to provide social security to all the workers only in the industrial sector. The child labour was also the result of industrialization but the laws were not sufficient to protect the interest of the child labour. The laws were limited only to the extent in regulating, controlling or prohibiting child labour. The child labour was not considered as a very useful work force and hence providing social security to these industrial child labours was not given any thought.

With the intensification of labour, depletion of industrial units, inadequate/sub-standard working conditions, increasing industrial hazards, accidents that occur by disregard to safety measures by the workers brought the workers under various risks. Hence there was an urgent need for strong and effective laws which would not only provide regulation of conditions and terms of employment, safety and health measures but also provide social security to the workers against unhygienic working conditions, retrenchments, lockouts, illegal deductions from wages, irregular payments and other unfair labour practices.

Accordingly the State was considered the best agent who could be assigned to make laws and schemes regarding these workers taking into account the education, health, housing and social security of the workers. It was realized that the social security should be basis of human dignity and social justice to all human beings because the citizens who contribute or would contribute in future in the growth and development of the country should be provided protection socially, economically and politically.

Thus social security can be regarded as an important element which could be provided through plans, policies and measures to give relief and security against those risks which any working citizen is often exposed to in his life due to sickness, disablement, old age, unemployment, economic hardship, accident, occupational hazards etc. Social Security in India aimed at fulfilling the wishes of the Constitution makers of a welfare State.

This aim could be achieved only when the laws of the land would be directed and implemented towards improving the working conditions of the workers and providing protection against uncertainties of the future and thereby giving a secured future. Social
security should not be treated as a burden on the economy of any State but as a concern for the working class who would yield better dividends in the future.

Thus it is observed that the Social Security measures shall include both protective as well as promotional forms. The programs, plans and schemes of Social Security should be devised and addressed to meet the needs of the most vulnerable sections of the society.

Hence we can say that Social Security is demanded through certain conditions of the society such as unemployment, underemployment, disability, loss of livelihood, retirement, funeral expenses, childhood employment, physical disease or incapacity, employment injury, old age, medical care and expenses for family or self, emergency expenses etc.

Hence, providing Social Security to the citizens should not be left to any voluntary charity but it should be the foremost responsibility of a state making it compulsory on statutory basis. Social Security laws include Social Assistance and Social Insurance in the modern concept because Social Assistance aims at providing minimum subsistence to the beneficiary and Social Insurance aims to protect a minimum standard of living. In Social Assistance the State and the local bodies help the citizens against contingencies and they include non-contributory benefits. It shall include unemployment benefits, tax exemption, maintenance of children, and mothers, medical assistance to disabled, aged persons or invalids etc.

Social Insurance is a contributory benefit which is combined effort by the person concerned, the employer and the State. The contributions, benefits the beneficiary for conditions of unemployment, sickness, old age and other contingencies and are given as a right subject to qualifying conditions. But in the modern system of providing Social Security the Government has combined both the concepts of Social Assistance and Social Insurance because it is realized that Social Security could be provided with the help of appropriate laws both contributory and non-contributory by way of right of the working class.

But it is observed that the laws have not reached to every citizen who is contributing in the society in his own way. Do only the organized sectors contribute towards the development and progress of the country? What about those workers who help the organized workers in accomplishing their duties at work. It can be said that when we watch a movie or a drama in a theater we only praise the actors which we see on the screen or the state. But, we forget that there are many persons as technicians, responsible for making the film or drama on the stage successful.
It is the same way that when a women or man goes on his duty there is a girl stepping in the house that does all the chores and helps the master proceeding on work. Have we ever thought of her Social Security? Have we ever thought of formulating special laws for the girl child labour as domestic help? The answer to these questions is “no” and the need and urge is to provide social Security to this class of domestic help.

Hence a law and such schemes need to be devised to provide benefits as of right to the girl child labour as domestic help of small earnings, in amounts which combine the contributive efforts of the insured with subsidies from the employer and the State. It is also observed that the existing methods of national insurance and public assistance have also failed to cope with providing social Security to all citizens because of the sectional approach and limited scope. The State always tends to deal with effect rather than the cause and hence fails to provide meaningful Social Security measures that would include all the citizens who contribute to the work force of the country.

The Social Security laws, policies, plans and schemes would be meaningful if they help provide adequate means and amount of economic help for what we consider today a respectful and dignified living. And if they cover the whole population that constitutes the organized and unorganized sector, all the economic and social risks of the industry or any work place caused to the workers, and if they are supported by social assistance and service which aim at providing relief to the distress and loss caused by various reasons to the work force. Thus there is a need for such Social Security laws that would built a complete structure intended to lessen the force of future depression. The laws must also provide relief to the needy in times of deflation and inflation. Thus in view of above discussion it is observed that there are laws formulated towards providing social security, but they are limited to the organized workers and they do not abide by the promise made by the Constitution to its people. None of the laws have made any provision with regard to provide social security to the girl child labour as domestic help.

5.17. SUM UP:

The chapter on International perspective is an extensive study of the international scenario to study the issue of providing social security to girl child labour as domestic help. The chapter discussed the definition of human rights, its domain and extension, Universal Declaration of Human Rights, the various ILO Conventions. Through this study the researcher has tried to observe the civil, political, social, economic and cultural rights available to the girl child
labour as domestic help. But it was found that though the ILO has a few conventions regarding the domestic workers but has failed to take cognizance of the girl child labour as domestic help.

It has also been observed that the present study on the international scenario has revealed many facts. The study has revealed that the measures made by the International Labour Organization for the welfare of the working child has failed due to low implementing status. The enforcement machinery relating to the child laws is also not satisfactory.

It has also been observed that the laws are not made in accordance to the conventions though the states are signatories to these Conventions. The inspection machinery is also unsatisfactory and the duties cast up on the employers are also very meager. The provisions relating to the welfare are also not according to the recommendations made by the ILO. The countries though ratified to the various conventions yet they fail to provide for the social security to the girl child labour as domestic help.

The study also reveals that the ILO has not been able to cope up with the socio-economic conditions of the various countries ratifying to the conventions and so the provisions seem to be weak in protecting the child labour in general and girl child in specific. Until there are specific provisions for the various categories of the society the effectiveness of the laws cannot be sought. The International Conventions must strive to make provisions for elimination of poverty.

The ILO must strive for programs for the satisfaction of basic needs of the society and most particularly for some vocational training programs and working conditions adapted to the age of the child, prohibition of exploitation with regard to wages or hours of work, leave etc. The ILO must also increase educational opportunities. It would be more desirable to enforce social security measures. It is noted that the ILO must suggest schemes and policies which would be appropriate to the development of the girl child. It is observed that the various conventions of ILO do suggest any measures so that the girl child helps her through earn and learn facilities for her economic empowerment.

Thus it is observed that it is a collective effort to find out ways and means for the upliftment of the girl child labour as domestic help. It is important that the girl child labour finds her place in the society with the help of laws made for her. The international fraternity should come together to solve this issue as to how social security should be provided to the girl child
and how legislation could be made more effective so that it reaches up to them for whom it has been formulated.

It is thus admitted through the study that internationally we have failed to abolish child labour and secure human rights to the girl child. Today we must accept that at this stage it not possible to abolish child labour then why not finds ways to protect her present. We must today strive to protect the girl child labour by providing social security to her so that she feels secured. It is not only the question of her security but to make her feel that she is an important part of the society and she too can contribute in the development of the country. It is necessary to make her feel that she is a major contributory in the economy of the country.