ABSTRACT

Women constitute half of the world’s population, work two third of the world’s working hours, earn one tenth of the world’s income and own less than one tenth of the world’s property.

Women in India from antiquity were accorded the most exalted and respectful place in the society. In Vedic Age women occupied a high position in society and played a significant role in all fields including cultural, social, religious and political. Their position however, deteriorated during the Post Vedic Period. They were confined within the four walls of the house and their role remained restricted to the traditional household work of cooking, maintenance of home and rearing of children. They were not supposed to seek any gainful employment outside the family. This hindered their economic development and reduced their social position.

The history of women’s participation in gainful employment is a recent one. After the Industrial Revolution, the social situation changed throughout the world and so in India. The family no more remained a centre of production. Due to industrialization and urbanization new social norms and values emerged. Job opportunities, economic hardship and favourable cultural and social situations encouraged women to seek employment outside the home.

After independence of the country the number of women to come out of their houses for work increased day by day. Although entering of women into work force raised their economic and social status, yet it gave rise to many problems and difficulties to them by way of exploitation, discrimination and dismal working conditions. The problems and difficulties got multiplied due to their peculiar social, biological and psychological conditions and due to their illiteracy and ignorance.
To undo the discrimination and exploitation, there arose a need to provide them some security and protection through law.

The Constitution of India, *inter-alia*, made several provisions for the protection and security of women workers. These provisions besides the preamble are contained in Articles 14, 15, 16, 23, 39, 43 and 46 of the Constitution. The provisions of the Constitution which are called policy principles for providing protection and security to women workers are implemented through different protective legislations. The protective measures are not only provided through legislations but also being provided through different Plans, Programmes, Policies and Schemes of the Government.

The main focus of Programmes, Schemes and Policies of the Government with regard to women labourers has been to remove the handicaps under which they work, to strengthen their bargaining capacity, to improve their wages and working conditions, to enhance their skill and to open up better employment opportunities for them.

Increasing attention is being focused at the international level on the problems of women workers. The UN system has been playing important role in the process of bringing awareness about women’s unequal position in society. The International Labour organisation has stressed that the interests of women as workers are generally indistinguishable from those of men, and it has gone further in emphasising that a women workers should be given special attention as they have special difficulties which drive from their function in the family and from social attitudes and customs. Various Conventions, Recommendations and Resolutions adopted by the UN and ILO from time to time to provide security to women workers.

In the light of above provisions and to comply with the different Conventions and Recommendations of the International Labour Organisation, the Government undertook various ameliorative legislative measures to provide safety and protection to women workers.

The Judiciary in India under its policy for attainment of social justice has been very attendant to give effect to the rights of women workers. An analysis of decided cases reveals that there is new trend of the Judiciary to interpret law so as to provide better protection to women in respect of their rights. The creative thinking that is evident in cases like *Kishori Mohanlal Bakshi v. Union of India, C.B. Muthamma v. Union of India, Air India v. Nargeesh Meerza, People’s Union for Democratic Rights’ v. Union of India, Randhir Singh v. Union of India, Vishaka v. State of Rajasthan, Municipal Corporation of Delhi v. Female Workers* are a good sign of judicial activism.

Despite the protective measures, national and international commitments, beneficial labour legislations and sympathetic judicial pronouncements, women workers are still made to suffer discrimination in social and economic spheres and continue to be the most exploited lot. Therefore, much more remains to be done. It is true that laws are made for the welfare and benefit of people but laws and Constitution do not by themselves solve all the problems.
Statement of Problem

As it has been mentioned above that Government undertook various ameliorative legislative measures to provide safety and protection to women workers but in practice it seems that labour legislations are observed more in breach than in observance. In many cases it has been found that protective measures such as crèches, separate toilets and washing facilities, drinking water, recreational facilities etc. are not either provided or not adequately maintained. There are virtually no medical facilities and maternity benefits. Labour laws are callously ignored by the employers. So far as the social and economic position of women workers in Aligarh and Agra districts is concerned, it is not different from women of other parts of the Country.

Women constitute a significant part of the workforce of Aligarh and Agra. According to Census of India 2001, female work participation rate in Aligarh is 13.3 percent and in Agra is 7.24 percent. Within the districts there are various industries in which majority of women are engaged. Some women workers are engaged in home based industries and some are engaged in big industries, but unfortunately, the working and living conditions of majority of the women workers are not satisfactory and they do not receive the benefits provided under different labour legislations.

The life of women workers in lock industry, brick kilns industry, footwear industry and construction industry are very tough. Women workers in these industries are not getting any benefit worth the name. They are getting lesser than minimum wages. The wages too are not paid to them on time. Their working conditions are miserable. Their ignorance, poverty and illiteracy have added to their woes all the more. A great majority of them have not been benefited by the protective legislations in the critical areas such as wages, maternity benefits, childcare and social security. The working conditions of women in hicks thermometers industry are quite better than other industries and they received most of the benefits provided under different labour legislations. But unfortunately, they do not receive minimum wages.
In totality, the conditions of women workers in the industries of Aligarh and Agra are not good. Moreover, the problems of women workers much also depend upon the women workers themselves. Their ignorance and lack of awareness about their rights is also responsible for evasion of these beneficial labour legislations.

The laws, policies and welfare system that are proposed for women workers cannot be effective unless they themselves are conscious of law and acquire the strength to ensure that laws are brought into force; unless there are effective means to implement; unless Judiciary played its significant role; unless breaches of the law are punished with deterrent penalties, and unless the organs of public opinion and movement and organisations mount vigil and intercede to ensure that the provisions of the laws and welfare system are acted upon. Today this problem requires a deep and pragmatic research which this proposed study is aimed for.

Area and Scope of Study

The areas of study of researcher are Aligarh and Agra which are the most important districts of Uttar Pradesh. The present study restrict its attention only to the lock industry, hicks thermometers industry, brick industry in Aligarh district and construction industry, footwear industry in Agra district, because it is not possible for the researcher to study all the industries in Aligarh and Agra due to limitation of time.

Though this survey is confined only to five industries in Aligarh and Agra districts, it may be able to give an overall picture of women workers in Aligarh and Agra industries. As accuracy of a scientific work depends to a large extent upon the adequacy of methods that are selected and applied to it, the present work too has adopted systematic procedures of research work at every step ranging from the designing of the questionnaire to the interpretation of the collected data.

Hypothesis

The life of women workers is very tough. They have to face problems at home as well as at working places. Increasing attention has been focused to protect
them through constitutional provisions, beneficial labour laws, national and international commitments, protective measures and judicial pronouncements. Despite this, the women workers are still suffer of discrimination in social and economic spheres and continue to be the most exploited lot.

In this regard, numerous questions came in the mind of researcher, which inspire her to made the following hypothesis:

1. What problems working women have to face at home as well as at their working places?
2. Whether constitutional provisions, beneficial labour laws, national and international commitments, protective measures and judicial pronouncement are sufficient to provide protection to women worker or not? If sufficient, then why they are not being effective and problems of working women by way of exploitation, discrimination and dismal working conditions are continued?
3. What is the impact of Indian labour laws on socio-legal status of women workers in lock industry, hicks thermometers industry, brick kilns industry in Aligarh and construction industry, footwear industry in Agra? Besides this, what are institutional deficiencies in the protective legal framework and the functional problems in its implementation which frustrated the implementation of labour laws?
4. Whether working conditions of women workers in selected industries are miserable and exploitative in nature?
5. Whether women workers have awareness about laws and their rights?

**Object of Study**

To verify the aforesaid hypothesis, the present study has been undertaken with numerous objectives in mind:

1. The research is aimed to highlight the magnitude of the problems of the working women and to create awareness among women about their
rights. The study shall also concentrate what rights is available to women under Indian labour laws.

2. To examine the applicability of various labour laws on socio-legal status of women workers in lock industry, hicks thermometers industry, brick kilns industry in Aligarh and footwear industry, construction industry in Agra and to see how far and to what extent they are being observed by these industries.

3. To examine the obstacles in the implementation of various provisions selected under the study.

4. Along with this research is aimed to test the hypothesis that the existing constitutional provisions, beneficial labour laws, national and international commitment, protective measures and judicial pronouncement is sufficient to provide protection of women or not. If sufficient, then why laws, policies and welfare system is not being effective and problems of working women by way of exploitation, discrimination and dismal working conditions is continued.

5. To suggest possible solutions to their problems.

Research Methodology

The research on this topic will be done by adopting both the methods of research namely Empirical Research as well as Doctrinal Research.

Doctrinal research of course, involves analysis of case law, arranging, ordering and systematising legal propositions, and study of legal institutions, but it does more - it creates law and its major tool (but not the only tool) to do so is through legal reasoning or rational deduction. In the present study, Books, Law Journals, Case Law, Proceeding of Conferences, Doctoral thesis and Dissertations, Reports of Committees and Commissions, Five Year Plans, Census of India, National Sample Survey Organisation, Dictionaries, Statutes, Magazines, Comprehensive Manual and Newspapers shall be extensively used. For collecting material surfing on internet has also been done.
Empirical research is carried on by collecting, or gathering information by first hand study of the subject. In such a research, the researcher first of all accepts a working hypothesis or guess as to the probable results and then proceeds to collect enough facts to prove or disprove her hypothesis. The researcher then sets up experimental designs which she thinks will manipulate the persons or the material concerned, so as to bring forth the desired information.

The universe of this study is comprised of women workers in 1700 units of home based lock manufacturing industry, 1 unit of hicks thermometers industry, 178 units of brick kilns industry in Aligarh District and 10,150 units of footwear industry, 181 units of construction industry in Agra District.

Out of the universe, 20 units from home based lock manufacturing, 10 units from brick kilns, 20 units from footwear industry (home based + big units) and 5 construction sites have been selected for study. In Aligarh district only one unit of hicks thermometers industry, so that unit has been selected. Thus for the purpose of this study, a total of 56 units have been selected. Sample units were selected through random sampling method.

After selecting the sample of industry, lists of women workers employed in each selected units have been prepared with the help of employers of industries and other significant persons concern with these industries. In this process a total of 180 women workers listed from 20 selected units of home based lock manufacturing industry, 56 in 1 unit of hicks thermometers industry, 200 of 10 units of brick kilns industry, 225 of 5 construction sites and 150 of 20 units of footwear industry. Thus the total women workers listed in all selected 56 units are 811.

After this, A sample of women workers have been selected, following the random sampling method. 50 women from 20 units of home based lock manufacturing industry, 50 from 1 unit of hicks thermometers industry, 50 from 10 units of brick kiln industry, 50 from 20 units of footwear industry and 50 from 5 construction sites have been selected. Thus, the total of 250 respondents women workers from the five selected industries are covered for this study. The decision
for selection of 250 women workers from 5 selected industries was approved considering the fact that the sample size of this proportion is fairly a good representative for expressing the overall characteristics of the problem chosen for the present work.

Empirical study is based on primary data. The primary data has been collected over a period of three years from Feb. 2006 to 2009. To collect empirical data both qualitative and quantitative methods have been used. Quantitative information is collected through questionnaires and qualitative information is collected through observations and discussions.

**Proposed Chapterisation**

To discuss the various objectives in the light of the hypothesis, the present study is planned as follows:

In the beginning, the introduction has been discussed. It lay down broad perspective, which the researcher has kept in mind while dealing with the topic. It throws light on Statement of Problem, Area and Scope of Study, Hypothesis, Objective, Research Methodology and Proposed Chapterisation. It outlines the problem which prompted the researcher to do deep and pragmatic research on this topic.

**Chapter I** deals with Extent and General Pattern of Employment of Women. In this chapter an attempt has been made to discuss position of women in India, nature and pattern of women employment, women workers in various sectors and also to highlight the factors, which is affecting the employment of women.

**Chapter II** deals with Magnitude of Problems of Working Women. This chapter highlights the problems of working women at home and problems of working women at workplace. It explains that entering of women into workforce raised their economic and social status. Yet it gave rise to many problems and difficulties to them. To overcome the difficulties and problems faced by women, some solutions have been put forward.

**Chapter III** deals with Constitutional Framework. An attempt has been made in this chapter to give a sketch of the constitutional framework which provides
security and protection to women and also to examine the judicial interpretation of the constitutional provisions relating to women in general and to women labour in particular.

**Chapter IV** deals with International and National Perspectives. The protective measures provided at national level through different Plans, Programmes, Policies and Schemes of the Government. The protection given to women at international level by the various Conventions, Recommendations and Resolutions adopted by the UN and ILO from time to time to provide security to women workers.

**Chapter V** deals with Women’s Rights and Labour Statutes. In the Present chapter, an humble attempt has been made to discuss the women’s rights which are provided in the labour laws. All the relevant labour legislations which provide protection and security to women workers have been discussed at length. Beside this, loopholes in the labour legislations have been pointed out and various suggestions for their rectification have been put forward.

**Chapter VI** deals with A Socio-Legal Study of Aligarh and Agra. The working and living conditions of the majority of women in lock industry, hicks thermometers industry, brick kilns industry in Aligarh and footwear industry, construction industry in Agra are not satisfactory and they do not receive most of the benefits provided under different labour legislations.

A survey is conducted in Aligarh and Agra to examine the applicability of various labour laws on socio-legal status of women worker in selected industries and to see how far and to what extent they are being observed by these industries. Although labour legislations provide security and protection to women workers, but it is a matter of common knowledge, that such legislations could not be very effective, so an effort has been made to identify the institutional deficiencies in the protective legal framework and the functional problems in its implementation which frustrated the implementation of labour laws and suggestions have been also made to make it more effective and result oriented.

**Chapter VII** deals with Judicial Response. The role and approach of Judiciary has been quite significant with respect to women. There is a new trend in Judiciary to
interpret law so as to provide better protection and security to women in respect of their rights. Several rights of women workers have been recognised by Supreme Court of India and High Court in its various judicial decisions. Thus, a critical analysis of various cases has been made in this chapter.

**Last Chapter** deals with Conclusion and Suggestions. A summarization of the present study is attempted and a few suggestions are proposed therein. It has proposed that in order to raise the socio-legal status of women workers, the labour legislations should be made effective and result oriented. This can be achieved by removing the loopholes as pointed out and by incorporating the various suggestions in the law.

In the end selected bibliography is enclosed.

**Conclusion and Suggestions**

The foregoing study brings the conclusion that dignity of women in society provides an exact measure of the development of society. The position of women was equal to that of men during the Vedic Period, but it was deteriorated in the later phases and became extremely oppressive during the medieval period. The most important far-reaching efforts to emancipate women were made during the period of freedom movement in our country.

After independence of the Country the number of women to come out of their houses for work and started migrating to the cities to take up employment in industry.

In present day society, female workers are generally regarded as distinctive groups. At present women are engaged in every field. But unfortunately, there are various factors that have caused women lagging behind men in the world of bank. Social attitude, traditions, customs, marriage domestic chores, gender based division labour, biological differences, child rearing, insecurity, and sexual harassment fear, etc. are most important factors and also responsible for low level of women’s employment. Despite of these handicaps women are and will continue to remain in labour force.
Although working of women outside their homes solved their economic problems to some extent, it gave rise to many other problems and difficulties due to their peculiar social, biological and psychological conditions. The working women, married and unmarried whether employed in organised or unorganised sector face various types of problems at home level. Almost all of these problems are not of her own creation but due to the society traditional outlook. Women workers at workplace face the problems of law and discriminatory wage, exploitative working conditions, lack of secured employment, sexual harassment. From the researcher’s work the first hypothesis that working women have to face various problems at home as well as at their work place has been proved.

It is therefore, realized that conditions of women cannot be improved unless they are giving special protection. Thus Government has paid due attention towards miserable working and, living conditions of women.

The Constitution of India has given special protection to the needs of women to enable them to exercise their rights on an equal footing with men and participate in national development. The founding fathers of our Constitution granted freedom, liberty and equality to women.

On the one hand, the Constitution prohibits the State from taking any sex based discriminatory action and, on the other hand it imposes a positive duty on the State to strive to secure equality. The provisions of the Constitution truly constitute the palladium of liberty of women in India and marks the heyday of Indian women.

At national level efforts has been made though different Five Year Plans, Development Programmes (i.e. Integrated Rural Development Programmes, 1980, National Perspective Plan for women 1988-2000 etc.), Policies (i.e., National Policy for the Empowerment of Women, 2001, etc.) and Schemes (i.e. Mahila Samakhya, 1987, Rajiv Gandhi National Creche Scheme 2006, Janani Suraksha Yojana, 2005, Delhi Ladli Scheme, 2008 etc.) to improve the situation of women and women workers. But unfortunately, the performance of the Plans, Development Programmes, and Policies, and Schemes have been poor to due to
several reasons. One of the main reason is the lack of effective planning and co-
ordination not only between the Central and State Governments but also various
ministries and departments of the Central Government and also with field level
implementing agencies.

Attention has also been paid at the international level through different
Conventions, Recommendations and Resolutions, which are adopted by the UN
and ILO from time to time. By these Conventions, Recommendations and
Resolutions, it has now become possible for working women to lead a normal life
without impairing their chances of continued employment. Thus, the Conventions,
Recommendations and Resolutions came as a boon to the working women by
guaranteeing income protection, medical care and maternity relief. But
unfortunately, it is painful that these efforts have remained on the papers.

To provide security against various risks, peculiar to their nature, women
workers have been given various rights, benefits, concessions, protection and
safeguards against under different labour legislations. The main objective for
enactment of labour laws was to prohibit the violation of rights of women workers
and to provide them security and protection. But despite this all, much remains to
be achieved. Women workers are still made to suffer discrimination in social and
economic spheres and continue to be most exploited lot. Most of the labour
legislations apply to organised sector only, leaving unorganised sector, where a
majority of the women work, unattended.

It seems that penal provisions of labour legislations are not deterrent to
prevent the employer from making violations of these provisions. The machinery
for inspections and enforcement is inadequate. The women workers due to their
ignorance and lack of education do not approach the enforcing agencies for the
redressal of their rights and grievances. Therefore, penalties should be made
stringent and law enforcement should be made more effective.

The Judiciary anxiety and anguish towards the problems of women workers
was well amplified in various judgments and the Judiciary made earnest efforts to
secure the rights and protect the interest of women workers. The Court rightly
maintained that women are the participants in the mainstream and deserve equal
treatment. Old laws making women’s biology as a basis of segregations are
unreasonable and the Supreme Court has held such laws unconstitutional. The
Supreme Court has interestingly maintained recently that give preference to
women in jobs was only an affirmative action and need not be deemed as
reservation. The Judiciary is playing a creative role in harmonising and balancing
the rights and interest of men vis-à-vis women. However, this would not be correct
to say that nothing has been done to protect rights of women workers, while
progress has no doubt have been made, it is not commensurate with the size and
complexity of the problem. Thus from this discussion our second hypothesis had
been proved.

To test third hypothesis, a survey has been conducted in Aligarh and Agra.

The major findings of the survey reveal that:

In home based units of Aligarh lock industry, only 10% women workers
had awareness about laws and rights. Almost all the labour legislations are
applicable in home based units of Aligarh lock industry. The provisions of
Factories Act, 1948 were not properly implemented in these units. No women
employees were insured under the Employees’ State Insurance Act, 1948 to get
the benefits of this Act. The employer had not instituted the Provident Fund.
Majority of the women workers were not paid the minimum wages and bonus.
Thus, women workers in home based units of Aligarh lock industry are deprived
of various benefits of labour legislations.

In brick kilns industry of Aligarh. Almost all labour legislations are
applicable in brick kilns industry except Employees’ state Insurance Act, 1998. No
arrangements made by the employer for cleanliness, disposal of wastes and
effluents, ventilations and temperature, dust and fume, latrines and urinals and
spittoons. The employer had not instituted the Provident Fund. 10% respondents
were eligible to receive gratuity, but gratuity was not rewarded by employer.
Maternity benefit and medical bonus was not provided by the employer to the
respondents. Only two legislations, The Minimum Wages Act, 1948 and The
Equal Remuneration Act, 1976, were properly implemented in these bricks kilns industry.

In hicks thermometers industry of Aligarh various labour legislations are applicable except Contract Labour (Regulation and Abolition) Act, 1970 and Inter-State Migrant Workmen (Regulation of Employment and Condition of Service) Act, 1979. The conditions of women worker were quite better than other industries and they received most of the benefits provided under different labour legislations. It is very unfortunate that Minimum Wages Act, 1948 and Payment of Bonus Act, 1965 were not properly implemented in this industry. Thus in this industry almost all the legislations were properly implemented except Minimum Wages Act, 1948 and Payment of Bonus Act, 1965.

The Building and Other Construction Workers (Regulation of Employment and Condition of Service) Act, 1996 is a special legislation, which apply to the construction sites in Agra. Beside this, all the labour legislations are applicable to the construction sites except Employees’ State Insurance Act, 1948 and the Factories Act, 1948. The working conditions of women workers engaged in these construction sites were highly unsatisfactory and the welfare amenities available to them are just negligible. It was observed that only some provisions of Building and Other Construction Workers (Regulation of Employment and Condition of Service) Act, 1996, Payment of Wages Act, 1936 and Workmen Compensation Act, 1923 were implemented in these construction sites, while mostly labour legislations had been violated in these construction sites.

Almost all the labour legislations are applicable to footwear industry except Inter-State Migrant Workmen (Regulation of Employment and Condition of Service) Act, 1979. The provisions of Factories Act, 1948 were not properly implemented in these units. No woman employee was insured under the Employees’ State Insurance Act, 1948. All the respondents in selected units were paid less than minimum wages. Thus, it was observed that women employee in selected units of footwear industry are deprived of various benefits of labour legislations.
The survey reveals that working and living conditions of majority of women workers in home based units of lock industry, brick kilns industry, construction industry and footwear industry are not satisfactory and they do not receive the benefits provided under different labour legislations. In hicks thermometers industry, the condition of women workers is quite better than other industries. Thus from this, our next fourth and fifth hypothesis are proved.

The question arises if labour legislations provide as effective protection to women workers in terms of working and service conditions, then why these legislations are not being effective in selected industries of Aligarh and Agra. It seems that the main reason for ineffective of labour legislations is the non implementation of concerned labour legislations.

In Aligarh and Agra it was found by the researcher that there are many problems and obstacles in effective implementation of various provisions of labour legislations. These problems and obstacles are as follows:

1. Lack of awareness amongst women workers about their trade unions and about their rights under the labour laws
2. Paucity of hands of the implementation machinery.
3. The prosecutions launched in the Courts cause delay in awarding penalties for the non-implementation of laws.
4. The compliance of law proves to be costlier than its violation

To see this, Researcher has suggested the steps which may be taken the labour legislations effective and result oriented.

1. To make labour legislations result oriented, infrastructural facilities need to be provided and strengthened.
2. Agencies posted for the implementation of laws need to be strengthened and given teeth. It is proposed that adequate number of posts be created in Department, so that implementation may be done effectively. Secondly, the updating of labour laws especially the penal clauses should be done by enhancing the penalties and making them stringent.
The inspecting staff under all labour laws should be made accountable. The adjudicator authorities should dispose of these cases expeditiously. There should be frequent inspections of different factories and establishments to check violation of labour laws. Fair representation should be given to the ladies in the enforcement staff of labour laws.

3. Large family size and poverty are the main cause for working at low wages. Hence, it is suggested that workers are advised to follow the small size family plan.

4. A legal literacy programme can enable women labourers to apply that vertical awareness to the law and legal process, discovering both the limits and possibilities of law in the battle for socio-economic change.

5. All the three wings of the Government, i.e. Legislature, Executive and Judiciary should make a coordinate effort in this regard.

The Legislature should remove all the defects in the provision of the labour laws which pertain to women workers.

The Executive should streamline in activities and implement and enforce the provisions concerning women workers. For those matter competent and trained personnel including lady inspectors should be engaged.

Judiciary should also fulfill its obligation with respect to labourers fully. By acting as watch dog, it should be an endeavour on the part of Judiciary to interpret the labour provisions for the welfare and benefit of women workers.