CHAPTER VII

CONCLUSION AND SUGGESTIONS
In the beginning of civilization women in India occupied a respectful place in the society. In the Vedic Period women had an equal status with men and were occupying a high position in the society. Their position, however, began to deteriorate 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 of a recent origin. After the Industrial Revolution the social situation changed throughout the world and so in India. A family no more remained a centre of production. Because of Industrialisation and urbanisation new social norms and values emerged. Job opportunities, economic hardship and favourable social and cultural situation encouraged
women to seek employment outside the home. The women started migrating to the cities to take up employment in industry. This enhanced the status of women on the one hand and country's prosperity on the other. Although, working 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.

Initially women were employed mostly in unskilled jobs. They were paid wages lower than men and were subjected to discrimination and exploitation at the place of work. Their working conditions were dismal and far from satisfactory. It was, therefore, realised that socio-economic justice of the country can be achieved only by providing equality to women along with men in all fields and by giving special protection to them in certain cases.

Both at the national and international levels, a great deal of efforts have been made over the years, through various means for the upliftment and empowerment of women in general and women labour in particular. As a result the process of empowerment of women has been gaining momentum, though slowly but steadily.

A milestone in the process of providing protective measures for women was reached with the advent of Independence. A number of measures were taken up by the National Government in granting women equal rights, in matters of job opportuni-
ties, equal pay for equal work and protecting them from exploitation and safeguarding their other interests. The constitution of India gave special attention to the needs of women to enable them to exercise their rights on an equal footing with men and to participate in national development. It also aimed at creation of an entirely new social order where all citizens are given equal opportunities for growth and development and where no discrimination takes place on the basis of race, religion, sex etc.¹

The Founding Fathers of the constitution expressed the fear that discrimination will continue even after enacting Article 14 which provides equality before law and equal protection of law. They, therefore, prohibited discrimination on the basis of sex etc. by providing Article 15(1). The Framers were also conscious of the fact that the pitiable condition of Indian women can-not be improved by only prohibiting discrimination on the ground of sex. It can be improved by giving special protection to women. They, thus provided Article 15(3), which empowers the state to make special laws in favour of women. Thus special care has been taken to provide socio-economic justice to women. The constitution also adds to the service jurisprudence by enacting Article 16, which ensures equality of opportunity to women in matters relating to government employment and also prohibits any discrimination in respect of any employment or office under the state on grounds only of religion, race, caste, sex etc. This obligation not to discriminate in matters of public
employment and to ensure the equality of opportunity for women has thus guaranteed a significant position and status to Indian women.

While the right to equality of women can be discerned from Articles 14, 15 and 16 of the constitution, a positive duty imposed on the state to secure equal treatment and protection for women working in various fields can be found in various provisions of the constitution. Article 39 states that the state shall direct its policy towards securing for both men and women equally the right to an adequate means of livelihood, the right to equal pay for equal work and the right that the health and strength of workers, both men and women, is not abused. Article 42 provides that the state shall make provision for securing just and humane conditions of work and maternity relief and Article 43 directs that the state shall endeavour to secure to all workers living wages, good conditions of work and a decent standard of life. These are the Directive Principles to which the states are expected to give effect in course of time. These principles are expected to govern the state in its legislative, executive and judicial functions. Thus, 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 role of judiciary has also been quite significant with respect to women. The Indian judiciary to a certain extent has taken lead in securing socio-economic justice to
women. An analysis of the decided cases reveals that there is a new trend in the judiciary to interpret laws so as to provide better protection to women in respect of their rights. The creative thinking that is evident in cases like *Muthama* and *Neryesh Meerza* is a good sign of judicial activism. 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 segregation are unreasonable and the Supreme Court has held such laws unconstitutional. The judiciary is playing a creative role in harmonising and balancing the rights and interests of men vis-a-vis women.

The Punjab and Haryana High Court in *Shamsher Singh's case* has rightly said that Articles 14, 15 and 16 constitute a single code. Article 14 is said to be the genus and Article 15 and 16 the species. Article 15(3) is to be deemed as a special provision in the nature of proviso qualifying the general guarantees of Articles 14, 15(1), 15(2), 16(1) and 16(2). But at the same time only such provisions can be made under Article 15(3) which are reasonable and in favour of women. Clause (3) of Article 15 has come for criticism a good number of times but the legislature and judiciary have always responded positively by upholding the provision. The Supreme Court recently rightly observed that Article 15(3) in relation to women is a recognition of the fact that for centuries, women of this country have been socially and economically handicapped. As a result, they are unable to partici-
participate in the socio-economic activities of the nation on a footing of equality. It is in order to eliminate this socio-economic backwardness of women and to empower them in a manner that would bring about effective equality between men and women that Article 15(3) is placed in Article 15. This power conferred under Article 15(3) is not whittled down in any manner by Article 16. Therefore, the judiciary has recognised the sex-based discrimination constitutionally valid on the basis of peculiar conditions of women if it protects the interests of women.

It has been found that despite Article 16, which ensures equality of opportunity to women and prohibits discrimination in employment on the basis of sex etc, women are not adequately represented in the state services. It is because, of the deprivation of their right to equality in society for a long period, that their position has become so weak that they are not in a position to compete effectively with men. Due to their long suppression in the society, they are also recognized by the constitution to belong to the weaker section of the society. Therefore, an amendment, to Article 16 to enable the state to make reservation of posts and appointments in government service for women on the lines of Article 16(4) would go a long way in helping women to compete effectively with men for posts in government services.

Judiciary has also played an active role in enforcing and strengthening the constitutional goal of "equal pay for equal work". The doctrine of "equal pay for equal work" for men and
women which is a part of Directive principles of State Policy has been read in Articles 14 and 16 and made enforceable in the courts of law. It is now no more an abstract doctrine and is considered as the constitutional goal capable of attainment through constitutional remedies. Though the women are physically weak in comparison to men, yet the Supreme Court has condemned the discrimination on the basis of sex and has given new interpretation to the principle of "equal pay for equal work". It has refused to consider the quantum of physical strength of women, a standard for evaluation of work and pay.

In sum the judiciary in her own way has helped in the process of equalisation between men and women in independent India. A new social life based on equality between men and women has definitely emerged. Thus, these Articles of the constitution have assured women the right to equality in law, right to social equality, right to protective discrimination, right to equality of opportunity in public employment right to equal remuneration and maternity relief. In other words, these provisions of the constitution truly constitute the palladium of liberty of women in India and marks the heyday of Indian women.

In line with these provisions of the constitution and to comply with the different Conventions and Recommendations of the ILO, the Government undertook various legislative measures particularly after Independence, like The Factories Act, 1948. The ESI Act, 1948, The Plantations Labour Act, 1951,
The Mines Act, 1952, The Maternity Benefit Act, 1961, The Beedi and Cigar workers (Conditions of Employment) Act, 1966 and The ER Act, 1976, which provide for the protection and welfare of women workers, inter-alia, in factories, mines and plantations. These relate to the regulation of employment in dangerous occupations/employments, prohibition of night work, restriction on carriage of heavy loads, maternity relief, equal pay for equal work, provision of creches, and other welfare facilities etc.

The labour legislations, which regulate the working conditions of women workers apply to organised sector only. They do not regulate the working conditions of women workers in un-organised sector. It has therefore, been suggested that the labour legislations should be applied to un-organised sector also so that majority of the women who work in this sector are protected and get the benefits. In most of the cases where the labour legislations apply, whether they relate to prohibition of night work, prohibition of work in hazardous occupations, maximum hours of work, maximum permissible load, creches and other welfare facilities, it has been found that the law is not being strictly observed and the women workers suffer due to the violation of these laws.

In many factories it has been found that women work during night hours because sufficient work is not available during day time. In many cases it has been found that prohibition of right work effect the employment of women. It is therefore, suggested that women be allowed to work upto 10
Provided arrangement for transport and security are made.

Again prohibition of employment in hazardous occupations has also affected the employment of women but the safeguards cannot be done away with as they are socially necessary. The difficulty can be removed only by giving training to women workers so that their employment will be of advantage to employers.

The provisions relating to creches are also not being fully implemented. In many industries where employer is statutorily obliged to provide creches, they are not provided and where they are provided they are lacking in adequate facilities. At some places employers were found to provide this facility to permanent staff only and at others it was found that employers are deliberately employing less female workers so as to evade providing creche facility. Again, it has been found that in most of the factories and places of work separate washing and bathing facilities and separate latrines and urinal facilities are either not provided or are not adequately maintained.

It seems that the present penal provisions of the labour legislations are not deterrent to prevent the employer from making violations of these provisions. The machinery for inspection 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.
Although the two legislations i.e. ESI Act and MB Act are covering the same field of maternity benefit yet they are not uniform. In ESI Act the concept of insurance is involved and a woman worker is entitled to a benefit only when she has paid contributions towards the ESI Fund for a specific period while in MB Act no concept of insurance is involved and a woman worker is entitled to maternity benefit if she has worked in the establishment for a period of not less than 80 days during the preceding 12 months period. The MB Act provides two nursing breaks to working mothers till the child attains the age of 15 months. A similar measure is not contained in ESI Act. One more difference relates to the arduous nature of work. Under the MB Act a woman worker can refuse to perform work which is of arduous nature. The ESI Act does not contain such a provision. Therefore, it seems that the MB Act is more concerned about the health of both child and mother.

One of the major defects in the MB Act is that under this Act entire burden for payment of compensation is on the employers. This has led to a tendency amongst the employers either not to employ women or to evade the payment of maternity benefit. There is therefore, a need that the benefit under the Act should also be given on the pattern of ESI Act by creating an insurance fund. The Fund should also be administered by ESI corporation. The MB Act should then be made applicable to all establishments irrespective of size and
without any qualifying conditions. With the passage of time maternity benefit should be covered wholly by MB Act and should be deleted from ESI Act. This will create uniformity in the area of maternity benefit.

There are also some common defects in both the ESI and MB Acts. They do not cover the cases of adoptive mothers and they pay maternity benefit regardless of the number of children born. It has therefore, been suggested that cases of adoptive mothers should be covered and maternity benefit should be restricted to only two children by making necessary changes in the law. Many more short-comings have been pinpointed in the MB Act and remedial measures suggested.

However despite these defects, yet the virtue of both ESI and MB Acts is that they recognize the needs of pregnant women workers and guarantee paid leave for them on a national level, a step that many other countries have not had the realism and foresight to do.

Like the MB Act, even under the ER Act instance are not lacking where women do not assert for their rights due to fear of losing their jobs. The ER Act which prohibits discrimination between men and women in regard to wages, is not being effectively implemented. Women continue to occupy low status jobs and the effectiveness of this well oriented social legislation has not been extremely limited. Although this is in right direction, yet it does go very far. The ER Act is observed more in breach than in observance. The Advi-
Sory Committees have not been constituted in some states and in states where they are constituted, they do not function effectively. There are hardly any significant cases of complaints being successfully argued under the Act. It will be necessary to ensure that the Authorities and Advisory Committees envisaged under the Act, start functioning and issue regular reports and information. As the procedures under the Act are cumbersome and labour officers un-responsive, it has been suggested that remedial measures should be adopted.

The major problem with the Act is the definition of "same work or work of a similar nature". The definition leaves much to be desired and can defeat the object of the Act. It leaves the door wide open for employers to continue mainly with the practice of paying less to women workers as men and women seldom do the same work. It has therefore, been suggested that the term "same work or work of a similar nature" is to be replaced by "same work or comparable worth". It is not the similarity or identity of work alone that will entitle women to equal pay but also work which is comparable in terms of skill required and its value to the employer that will entitle them to equal value.

It has also been found that section 16 of the ER Act is defective and can work against the interests of women employees. Under this section government can declare that the difference in wages in a particular post is not based on sex and the courts have to accept it without any enquiry. This rule could be used arbitrarily not only in public sector
undertakings but also in private employment to shut out an inquiry by the courts. Therefore, section 16 needs amendment so that equal pay for equal work cannot be denied.

To translate the socially just and economically sound principle of equal remuneration for men and women into practice, it is absolutely essential to remove prejudices and bottle-necks against employment of women. There is also a need, to do everything possible to increase women's employment opportunities and to raise their productive efficiency.

The judiciary has played an active role in enforcing and strengthening the constitutional goal of "equal pay for equal work" for both men and women and has brought equal remuneration within the contours of fundamental rights. The decided cases reveal a creative role of judiciary in securing equal pay for equal work.

It has been seen that these protective discriminatory legislations have proved counter-productive and have resulted into decline of women labour. The employers are reluctant to employ them because of bearing of extra costs and of certain prohibitions attached with women's employment. Therefore, there is a need to ensure that the protective discrimination resorted to in favour of women workers should not have adverse impact on the scope or the avenues of their employment in various types of employments, otherwise it is bound to have an adverse effect on the service prospectus of the female employees. In such situations, instead of doing favour
to the women workers it will certainly amount to creating injurious impact due to resultant reduction in employment opportunities for them. Hence, it becomes imperative that a balanced and reasonable approach may be adopted in order to achieve desired objectives and training may be imparted to women so that women with proper training can be as useful and efficient as men. Unless and until this is done and a vigorous policy is pursued the adverse impact of labour legislation on the employment of women cannot be counteracted.

Special provisions under different plans have also been made from time to time, to uplift the position of women. Many socio-economic programmes for the benefit and welfare of women were started under these plans. These programmes also aim at providing special facilities and opportunities to women for gainful employment. However, it is an admitted fact that despite formal declarations and legislative measures, there are still grey areas between legislation and enforcement, policy and practice and between the enunciation of the principle of equality and its actual implementation. The reasons are fairly simple. Women, in general are at a disadvantaged position in the labour market, owing to a complexity of factors such as low literacy level, absence of adequate skills and lack of mobility. Women are therefore, employed in a restricted range of jobs requiring only low levels of skills and education. The de-facto inequality in the status of men and women originating from social, economic, political, caste and cultural factors has been further accentuated
by the job segregation over a period of time and by their place in the family.

India is committed to the improvement of the status of women. It was a pledge made by the constitution makers and the Government is taking every possible step to see that the pledge is implemented by passing different welfare legislations, by planned economic development and by adopting different welfare programmes. In effect, free India provides a basic framework for possible improvement of women's status. The Government has been endeavouring to throw open more and more employment opportunities to women. The women themselves have also increasingly started venturing into new avenues of public and private employment.

Inspite of progressive labour legislations and different policy programmes to women and serious attempts to provide opportunities for women to develop their skills, awareness and employment, much more needs to be done. While progress has no doubt been made, it is not commensurate with the size and complexity of the problem. There are still large gaps which need to be removed through concerted efforts of all parties concerned. The social and political environment is generally an inhibiting factor for any social change that would enable the women workers to become equal partners in development. Joint campaign or action programmes and strategies need to be taken up by the Government, the specialised agencies created by the Government for promoting women's development in various sectors, the educational and training
Institutes, the voluntary organisations, the peoples representatives, the judiciary and the media alongwith full participation of women workers.

As given above women workers are still made to suffer discrimination in social and economic spheres and continue to be the most exploited lot. A new culture of equality of men and women in all walks of life must set the tone to assume dignity and justice for which economic security and equal opportunities are essential. However, eradication of discrimination and change of treatment of women can not be achieved by law alone. It is true that laws are made for the welfare and benefit of people but laws and constitution does not solve all the problems. It is the strict and sincere implementation of these laws which matters. Although, the need for more and more laws is always felt in a welfare state like ours, yet the existing labour laws, with necessary modifications and amendments are sufficient for the time being to take care of women workers. These labour laws apply to organised sector only. They should be extended to un-organised sector also where women workers are working in large numbers. Let us try to be honest in the implementation of these labour laws. The employers should be made to change their attitude towards women labour by strengthening the enforcing agencies and by imposing stringent punishments on the guilty. The law enforcing agencies should also be made accountable and answerable for any laxity or lapse on their part.
The problems of women which are primarily on account of social prejudice and conventional and traditional approach inherent in the system, can also be solved by creating the right public opinion against such conservative and discriminatory approach. Moreover much also depend upon the women workers themselves. Majority of them being illiterate and ignorant are unaware about their rights and privileges. They must rise to the occasion and realise their rights and status given to them under the law. They must leave the fear and agitate for their rights. For that they shall have to join trade unions and participate in their activities. As per 1991 Census their participation in trade unions is low and is only 12% of the total membership of such unions. So, their relatively lower degree of unionisation explains their inferior bargaining position. Hence, proper climate has to be created for active participation of women in trade unions and in other professional bodies for improving their working conditions and quality of life. Educational and training programmes should also be taken up for working women which may remove their fear in the male dominated society and give them a feeling that they are not inferior to men.

For long the country has neglected the gender aspect in the development process. The time has come to recognize the contribution of women to the generation of national wealth. Formulation of the policies which are gender sensitive is the need of the hour. There is also a need to do everything.
possible to increase women's employment opportunities and to raise their productive efficiency. An effort should also be made to create an atmosphere at the workplace free from any exploitation, discrimination and harassment.

So far as the social and economic position of women workers in the Jammu and Kashmir State is concerned, it is not different from women of other parts of the country. 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. Men are preferred over women in employment. Women are considered inferior to men and are discriminated by the employers at the place of work.

Although, constitution provides equality of men and women yet that seems to be a mere slogan. Labour legislations also provide them security and protection but these legislations are not properly implemented and are not applied to the unorganised sector where women workers are engaged in large numbers. The women workers in the unorganised sector are not getting any benefit worth the name. Their working hours are not fixed and they are also getting less than minimum wages. The wages too are not paid to them on time. Their working conditions are miserable and they are like bonded labourers. It has therefore, been suggested that labour legislations should be extended to the unorganised sector also, so that working conditions of all employees in general and women workers in particular in the unorganised sector may improve.
and they may not have to suffer any more.

As mentioned above the working conditions of women workers in organised sector are also not good except the central public sector where most of the benefits provided under labour laws are available. This is the only area in Jammu and Kashmir state where creche facility is available but in this area only a small percentage of women are employed. The women workers of the state public sector and the private sector are all deprived of most of the benefits. No creche facility is provided, no separate washing facilities and rest rooms are provided. Drinking water and toilet facilities provided are not adequately maintained and are not kept in clean and hygienic conditions. The working conditions of women workers in the private sector are the worst. They are treated like domestic servants. In this area employers prefer un-married women and generally keep their services casual so that they may not have to pay any benefit to them. As there is no trade union in this area, so employees do not agitate for their demands. 50% of them are getting less than minimum wages.

In totality the condition of women workers in Jammu and Kashmir state is very pathetic and disgusting. The reasons which have contributed towards this state of affairs are not far to seek. They are: (1) Illiteracy and ignorance of the majority of the women workers about their rights under the constitution and the labour laws. (2) Non-unionisation of the majority of the women workers and lack of industrial culture amongst both the employers and the employees; (3) Less partic-
ipation of women workers in trade union activities, at the places where trade unions are present. (4) Non-deterrent punishments under labour laws; (5) Incompetent and corrupt enforcement staff; (6) Smaller number of enforcement staff and less representation of females in the enforcement wing; (7) Unqualified and non-technical enforcement staff; (8) Non-maintenance of records by the Labour Departments and (9) Apathy of employers towards the problems of women workers.

To improve the working and living conditions of women workers and to raise their social and economic status the following suggestions are made:

1. The labour legislations apply to organised sector only, leaving un-organised sector unattended. In other words the majority of the women workers who work in un-organised sector are left un-protected. Therefore, these legislations should be extended to un-organised sector of employment also. With respect to agricultural workers a separate Act on the pattern of Kerala Agricultural workers Act, 1974 should be enacted containing specific and comprehensive provisions relating to women workers.

2. It is observed that a worker becomes efficient and creative in relation to a situation only when he/she puts its heart into it. This can be achieved by the worker only when his/her working conditions are good. The living and working conditions of women workers are
mostly un-satisfactory. Unless the working conditions are improved, workers will not develop a sense of dignity and status. They must make earnings that will enable them to have a certain minimum amount of nutritious food and a minimum of clothing. It is found that women workers regard factory life as a temporary camping ground because their hearts are always at home, which are away from the place of work. This problem can be solved if women workers are provided with housing facilities at or near the place of work. As a sequel to this women workers can work late upto 10 p.m. during night hours. This can also increase their chances of employment. If residential facilities are not provided immediately, then for the time being adequate transport facility may be provided during peak office hours. Needless to mention that Jammu and Kashmir Government has provided "ladies special" buses in Srinagar and Jammu from 1996. Working ladies are considerably benefitted by it.

The provisions relating to separate latrine and urinal facilities and separate bathing and washing facilities should be strictly complied with and these should be properly maintained. The facility of separate lunch room and rest room should also be provided. There is a need for active involvement of voluntary organisations, trade unions and Mahila Mandals for
upgradation of standards of living of women especially those working in the un-organised sector.

3. The social outlook towards women in general and women workers in particular must undergo a radical change in order that women may be able to work without harassment and social disapprobation. There is a need for mobilisation of public opinion and an effective community participation against eradication of social evils, through constant endurance. Mass media and social workers can play an important role to mould the public opinion in ameliorating the conditions of work.

4. As majority of the women workers are illiterate and ignorant about their rights under the law, this has led to their discrimination and exploitation at work place. In order to remove this discrimination and exploitation, there is a need to educate them about their rights and responsibilities. This will improve their employment status and living and working conditions. Therefore, educational programmes should be undertaken by the Labour Department for them by publication of their rights through pamphlets, handbills and newspapers in local language. The educational programmes for them can also be undertaken through mass media, seminars, conferences and through Adult Education Programmes. Trade unions can play an important role in this regard.
The education of women workers about their rights and duties should also be an integral part of the job description of the labour officers and inspectors. They should not perceive their job as prosecutors only. They should also function as promotional agents in ensuring that the women will get access to social protection and welfare facilities to which they are entitled under the law.

One of the reasons for victimisation and discrimination of women workers is their less participation in trade union activities. Their extent of organisation and unionisation has also an important bearing on the getting of benefits under different labour legislations. As per the census of 1991, women workers constitute only 12% of the total membership of such unions. This speaks of their less bargaining power.

Trade unions can take up the matter of women workers only if they become its members and participate in its activities. Therefore, more and more women should join trade unions and agitate for their rights both in the organised and un-organised sectors of employment. They alongwith their male counterparts should try to get their demands fulfilled. But, while pursuing their demands the trade unions should behave in an orderly manner. Employers should also change their attitude towards trade unions and invite healthy suggestions and
constructive criticism. Employers should also humanly deal with their problems and consider workers including women workers as their partners and friends without any discrimination and bias.

In order to ensure representation of women in the trade union administration, there should be at least one lady member in the executive of the trade union. This will give a representative character to the executive body of the trade union and the women workers will also repose trust and faith in such a trade union.

6. Women workers are generally given only un-skilled low-paid jobs. This tendency requires to be corrected by providing vocational training to women. Therefore, basic need for women workers is their better education and training. Women's training programmes should be so designed as not to confine them to feminine jobs, but to give them equal opportunities with men in all fields. The necessary training facilities should be created and augmented. Vocational guidance programmes should serve a useful purpose in giving required information to women. Preference to women for training should be given in those trades and occupations for which they have special aptitude.

7. Women constitute half of the population, but their number in the jobs is very less. Therefore, job avenues as per local requirements have to be created in such
manner that more and more women can get employment. Job creation in the public employments can also be facilitated by making some reservation of jobs for women by amending Article 16 of the constitution. Creation of job opportunities for women will result in raising their living standards.

In the organised sector of employment, there is an adequate coverage of women workers by laws granting special protection to them. The major problem, however, is proper administration and enforcement of the laws. It is only with effective enforcement of laws that the benefits meant for women workers will percolate to them. There are many employers who do not show any regard for observing these laws. The exploitation of women workers under such employers is a common experience. This is more so, when women workers are illiterate, ignorant, working in far flung areas and are not organised. Therefore, to remedy this situation and to ensure the implementation of laws the following suggestions are made: The agencies posted with the implementation of law need to be strengthened and given teeth. There should be frequent inspections of different factories and establishments to check violation of labour laws. The inspecting staff should be made accountable. To achieve this purpose a separate prosecution wing needs to be established. Action should also be taken against the corrupt and in-efficient offi-
cials. Secondly, the number of enforcement officials should be increased. Due to the paucity of hands with the Departments proper enforcement of the laws is not done. Therefore, adequate number of post should be created in the Department so that implementation of the laws is done effectively. Fair representation should be given to the ladies in the enforcement wing. Thirdly, all the defects and loopholes in the laws should be removed by updating the labour laws. The presence of loopholes in the laws have considerably contributed towards the violation of the laws. Procedure for booking the defaulting employers are cumbersome and dilatory. They need to be simplified. The penalties for making violations should be enhanced and punishments made stringent. The Industrial Disputes Act, 1947 does not empower the Labour Courts/Industrial Tribunals to execute their awards which needs amendment. There is a lengthy and cumbersome procedure provided under the Industrial Disputes Act for reference of disputes to Labour Courts/Industrial Tribunals. For the speedy disposal of cases this also needs drastic amendment. The trial courts should also dispose of cases expeditiously. Lastly there should be frequent meetings between the trade union representatives and the employers to assess the general and effective implementation of the labour laws.
9. It is found that the records which can indicate the implementation of labour laws are not properly maintained by the Labour Department. It is, therefore, suggested that the records of the returns, complaints, prosecutions etc. should be properly maintained. For that purpose qualified and trained statistical assistants should be engaged and the statistical wing of the Labour Department should be strengthened. The labour officers and inspectors should regularly submit returns to the Labour Department. They should be punished sternly for any laxity or delay on their part or for submission of wrong returns.

The Labour Department should annually come up with a comprehensive report relating to labour. This may give an opportunity for assessing and making improvements in service and working conditions of workers in general and women workers in particular. The Labour Department can also arrange Tripartite meetings between the government, employees and employers and can also hold conferences and seminars for highlighting the problems of women workers.

10. Women workers who suffer due to discrimination at the work place should be provided free legal aid for pursuing their cases before the authorities. Free legal aid should be given on matters relating to poor working conditions, low wages, wage differentials and other issues where exploitation is rampant. Public interest
litigation in the area of women workers should also be encouraged. Judiciary has to play a very important role in furthering and raising the socio-economic status of women workers. It should expeditiously dispose of the cases.

11. Provision for creches must be made compulsory for all the factories and establishments where 20 or more women workers are employed. The facility should be provided to all women workers whether employed in temporary or permanent capacities. The facilities in the creches should be upgraded.

In order to ensure the provision of creches in small establishments which employ less than 20 women workers creches may be established by either of the following ways: (1) As per the recommendations of the NCL, the state should itself provide creches as a part of labour welfare activity in smaller units, which otherwise are not legally obliged to provide them. In such cases part of the expenditure on creches should be recovered from the employers concerned. Children of women workers employed through contractors should also be covered by this facility. (2) In case of smaller units which are adjacent to each other, a common creche may be established by all the employers jointly, bearing expenditure of the creche proportionately or by NGO's or other social welfare organisations who may recover the expenditure from the employers concerned.
12. A separate women's welfare fund should be created to help the women workers who fall sick while in service. Help should also be extended to the dependents out of the fund in case the concerned employee dies.

Free medical facilities for all women workers should be provided at the working place. This facility should also be extended to the family members of the women employee.

13. In order to reduce the financial burden on the employer a central Maternity Fund for the payment of maternity benefit to women workers should be created. Contributions towards the fund should be paid both by the employers and the women workers. The fund should be run on the pattern of insurance and should be put under the charge of ESI Corporation. The MB Act should be made applicable to all establishments irrespective of size and without any qualifying conditions. With the passage of time maternity benefit should be wholly covered by the MB Act and the provision of maternity benefit should be deleted from the ESI Act. This will create uniformity in the area of maternity benefit.

14. Payment of maternity benefit is not linked to the number of children born. It is, therefore, suggested that maternity benefit should be restricted only upto
two children\textsuperscript{19}. This will be in the interest of women's health and as a measure to check population growth. Maternity benefit should also be paid to those adoptive mothers, who adopt a new born child. This will be in the interest of the health and safety of such child. For the purpose of maternity benefit an adoptive mother should be treated as a natural mother\textsuperscript{20}.

15. Lastly to make labour legislations result oriented, infrastructural facilities need to be provided and strengthened. Research in the labour field is another area which needs to be attended, so as to cover those areas/sectors where legislation is non-existing or hopelessly defective.
REFERENCES

1. See the preamble of the constitution of India.
2. Article 39(a) of the Constitution of India.
3. Id., Article 39(d).
4. Id., Article 39(e).
5. C.B. Muthama vs Union of India. AIR 1979 SC 1868.
9. Supra note 3.
14. This was considered at a high level committee set up by the Central Government. The Committee thought that though it is contrary to the family planning norms being advocated by the Government, it is also not appropriate to deny a woman employee the benefits under the law, once she gave birth to a child. It is submitted that imposition of restriction on the number of children is both in the interest of health of woman and in the interest of programme of population control.
16. In line with this suggestion the Supreme Court recently declared sexual harassment at the workplace a penal offence. The Court made it mandatory for the employers to ensure that women do not work in "hostile" work environment. The Court by this ruling enlarged the gamut of fundamental rights by declaring that the right to life for working women includes an environment free from harassment. See the Times of India, New Delhi, August 14, 1997, P.1 and August 19, 1997, P.13.


18. Ibid.

19. A study was undertaken by National Commission on women on the status of working women in urban areas and its report was submitted to the Government of India. The report inter-alia suggested that the maternity leave be extended to six months from the present three months period and the maternity benefit of six months be granted only twice in a career. See the Times of India, New Delhi, June 23, 1995, P.10. This supports our stand that maternity benefit be restricted to only two children. Our stand again gets vindicated by a recent order of central government by which maternity leave is restricted to only two children. The order also enhances the maternity leave from 90 days to 135 days. It is therefore, suggested that the same provisions should be incorporated in labour legislations also. See The Sunday Times, New Delhi, October 26, 1997, P.1.

20. In a far reaching decision, the Government of India in 1991, decided to provide maternity leave to adoptive mothers who are members of the All India Services. This was in keeping with the recommendations of the Fourth Pay Commission. See the Time of India, New Delhi, November 5, 1991.