CHAPTER III
CONSTITUTIONAL AND LEGISLATIVE PROTECTION TO WOMEN-WORKERS IN INDIA

3.1 INTRODUCTION

The political awakening of Indian women began in the early twenties of the previous century. It gathered strength through a national movement that enlisted men and women as co-soldiers and co-workers under the leadership of Mahatma Gandhi. Yet in all these years women could not make full use of their constitutional and legal rights because of historical, social and cultural factors. Women form an important part of the workforce in India. They require special treatment. Women have got important bearings of home life as well as the health of future generation. Hence society is primarily concerned with the conditions of their employment. Prevention of exploitation of working women is the aim of all legislations regarding women. The main inspiration of such protective legislation was provided by terms setup by the International Labour Organization (ILO) in 1919.

The inequalities and discrimination exercised upon the women by traditions of the past centuries could not be easily eradicated. The present chapter therefore reviews the present status of women in political, social and economic life of the country and protective legislation for women-workers in India.

3.2 POLITICAL RIGHTS

Women took active part in the political life of the nation. When World War II broke out in 1939, women realized that freedom for India was the only means to achieve political recognition for them and they joined their brethren in demanding independence. It was because of their participation in political struggle that women were granted higher status and adult franchise in the Sovereign Democratic Republic of India which came into existence on 26th January, 1950.
Women together with the help of their brother reformers worked for absolute freedom. They had been clamouring for justice and equal status with men for many years and one of the first measures taken by the government of India was to give women equal political power by conceding to them adult franchise and removing all the discriminations which they had hitherto suffered.

Indian women of today have equal rights of voting for all the elections for different legislatures including Parliament and also for the post of President of India. No wonder a lady is the first citizen of India today. They have also equal rights for all trade union activities including elections. Previously women had led a bitter and frustrating struggle for these rights which were so easily conceded to them on the achievement of Indian independence.

Probably India is among the most advanced countries in regard to the status of women in every sphere of life. Our national leaders held women in high esteem and naturally their ideas percolated in all the strata of the society. Late Pandit Jawaharlal Nehru did not express a mere sentiment when he declared “I have long held that a country’s progress could be measured by the status and progress of the women of the country”.¹

Mahatma Gandhi had declared “To call women the weaker sex is a libel. It is man’s injustice to women.” Further he said “I would love to find that my future army contained a vast preponderance of women over men.”²

Though women are granted the right of adult franchise, because of their illiteracy and ignorance as well as traditional backwardness, they are not in a position to use these rights effectively. The lack of political consciousness and their apathy and reluctance to exercise
their rights are also contributory factors. Probably that is a reason why the number of women representatives in the Indian Parliament is negligible. However according to the UNESCO findings even this small percentage was decidedly higher than that in certain other advanced countries like the U.K., the USA and Japan but lower than the USSR, Israel and Sweden. Similarly the percentage of women holding high offices is the highest in the case of India though as compared to men the ratio is negligible. This higher participation of women in Indian politics is essentially the result of Mahatma Gandhi's influence. The high success rate of women in Indian politics does not reflect any special preference of the electorate for women. Given the discrimination against women, a woman has to have exceptional ability to be nominated in the first place and hence women candidates are likely to be more gifted and more likely to win than men candidates. There is a proposal to have a reservation of one third for women representation in Indian Parliament.

3.3 SOCIAL RIGHTS OF WOMEN

Women were granted political rights. But along with political rights, women demanded equality in social and legal fields also. Various social reformers and different women organisations had been striving to achieve these objectives and in 1956 they got the social and legal rights through the passage of Hindu Succession Act, 1956.

The Act gives daughters, widows and mothers equal rights of inheritance of property. It also allows the wife to do what she likes with the property gifted to her by her parents at the time of her marriage and disallows the old systems of husbands having rights over their wives.

The Hindu Adoption and Maintenance Act, 1956 allows any Hindu men or women to adopt a son or daughter and removes the stricture that a woman has no right to adopt a child.
In short, Hindu Succession Act, 1956, created new rights in favour of women. As per this Act, for the first time, a widow was entitled to succeed simultaneously with a son. Similarly the Act conferred the right of heirship on the widow of pre-deceased son. It also entitled a widow to succeed to undivided interest held by her husband in the joint family property under the Mitakshara School. The right of claiming partition in the same way as a male owner was also conferred on the widow. The Hindu Succession Act of 1956 has an extremely important bearing on the rights of women. It has entirely abolished the "limited ownership" conferred on women by the provisions of the Hindu Women’s' Right to Property Act of 1937 and has converted the same into an “absolute ownership”.

The equality under these Acts however does not mean the end of protection to the women. Clause 3 of Article 15 of the Constitution of India states that “Nothing in this article shall prevent the State from making any special provision for women and children”.

3.4 ECONOMIC RIGHTS

(i) Equality of Opportunity

Section 275 of the Government of India Act, 1936 provides that generally a person shall not be disqualified by sex from being appointed to any civil service and civil post under the crown in India. Further Government of India ratified the Discrimination (Employment and Occupation) Convention, 1958 of I.L.O Under the convention, the government agrees to undertake a policy of non-discrimination to promote equality of opportunity and treatment for all with a view to wiping out discrimination in law and practice. The principle of no-discrimination has also been laid down in other important instruments of ILO viz., 'The Vocational Training Recommendation 1952' and 'The Employment Convention, 1964'. India has also ratified these conventions and therefore there is no discrimination in employment on the basis of sex.
These rights conferred on women by the Act and the conventions are, however, restricted by various subsequent notifications e.g. Notification 244 A (1937) excluded women from certain posts in the Public Works Department of the Central Provinces and Bearer, including posts in engineering services of the Province and certain posts in the ministerial services, such as draughtsman, Tracers, Foreman, etc. Similarly Notification No.6560 F of 25th June, 1937 has excluded women from certain posts in Public services under the Government of Bengal. These services belong to the following departments:

(i) Commerce and Labour, Communication and Works.
(iii) Agriculture and Industries.

In addition, women were debarred from all posts in the jail and police services. Some of these restrictions are no doubt prompted by considerations of women welfare. However some of these were unnecessary and baseless. Thus these notifications debarred women from many important posts and women had to fight hard to remove these restrictions.

Thus only in theory women are released from the traditional restrictions to which they have been subjected. In practice, however, they are far from enjoying the equality, e.g. a woman candidate was eligible for the Foreign Service only if she was unmarried or was a widow without dependents. If a woman candidate was selected, she was appointed on the express condition that she might be asked to resign from the service if she married. Fortunately in October, 1965 the Supreme Court of India settled this question in favour of women by declaring marriage clause illegal in employment contract.
(ii) **Equal pay for Equal work:**

Besides the above rights, women are also granted equality in regard to wages. According to Article 39 of the Constitution of India there must be equal pay for equal work for both men and women. Under this Article of the Constitution, Government of India has accepted to abolish the type of discrimination with regard to wages for men and women workers. India has also ratified the ILO's convention of 1951 on the equal remuneration for men and women-workers for work of equal value.

But neither the general policy of government nor the ratification of the convention has settled the issue. An arrangement is always put forward that the work turned out by a woman is not of equal value to that turned out by a man and on that ground lower wages are fixed for women in a number of cases.

The All India Women's Conference drew attention to this disparity in its memorandum submitted to the National Commission on Labour (1969). The memorandum stated “the majority of the occupations, where women are employed are unskilled or semi-skilled”. This constitutes a grave discrimination against women.

Even in economically and socially advanced countries, while remarkable progress has been made in the advancement of women, discrimination still exists. The principle of equal pay for work of equal value is not yet fully implemented in many fields. Vocational education and training opportunities are more limited for women than for men and access to certain professions and jobs offer insufficient facilities to ease the burden for women-workers who have commitments for both home and family. In developing countries, in addition to these difficulties, they have to face the problem of unemployment and underemployment.
It is satisfying to note that to remove the disparity in wages for men and women the government of India introduced Equal Remuneration Act of 1976. It provides for equal pay for equal work. Apart from this, the Act prohibits sex discrimination in recruitment. It also provides for the constitution of one or more advisory committee for providing increased opportunities for women employment. Every advisory committee should have at least 50% of women members. The Act also provides for equal opportunity for employment for men and women in both public and private sector establishments.

3.5 PROTECTION GRANTED TO INDIAN WOMEN WORKERS

There are a number of laws which make specific provisions for the safety, protection and welfare of women. The Factories Act, 1948, the Mines Act, 1952 and the Plantations Labour Act, 1951 prohibit the employment of women between 7p.m and 6 a.m. In the case of factories and mines, the State Government and the Central Government respectively are empowered to relax this restriction subject to the condition that such relaxation does not authorize the employment of women between 10 p.m and 5 a.m.

It is appropriate to note that the Madras High Court declared Section 66(1)(b) of the Factories Act as unconstitutional on 8th December, 2000. The main object of Section 66(1)(b) of the Factories Act, 1948 is to protect the workers from exploitation and it is for their interest and safety. This section restricts women employment between 10.00 p.m. and 5.00 a.m. The High Court has held that women cannot be excluded from employment during night shifts. Further the court has given certain guidelines and welfare measures for the workers who came forward to work during the night shifts and directed the state authorities to introduce suitable provisions and frame necessary rules.
The Mines Act places an absolute ban on the employment of women in underground work. Besides, the Central Government is authorized to prohibit, restrict or regulate the employment of women in mines or in any class of mines or any particular type of labour which are dangerous to life, safety or health of women workers.

The employment of women in dangerous operations is also covered by the Factories Act. Thus it stipulates that no woman worker should be allowed to clean, lubricate or adjust any part of prime mover or of any transmission machinery while it is in motion or to clean, lubricate or adjust any part of any machine if such work would expose her to risk of injury from any moving part either of that machine or of any adjacent machinery. Similarly, no woman should be employed for pressing cotton in any part of a factory in which a cotton-opener is at work, unless the feed-end of the cotton-opener is in a room separated form the delivery end by a partition extended to the roof or to a specified height, the women may be employed only on that side of the partition where the feed end is located.

With a view to protecting women against the dangers arising out of the handling of excessively heavy weights, both the Factories Act and the Mines Act authorize the fixation, by the appropriate Government, of the maximum load that could be lifted, carried or moved by a woman.

The need for making suitable arrangements at the work place where working mothers could leave their children while on duty has long been recognized. The Factories Act lays down that in every factory wherein more than fifty women-workers are ordinarily employed there shall be provided and maintained a suitable room or rooms (Crèches) for the use of children, under the age of six years, of such women. The rooms should provide adequate accommodation, should be adequately lighted and ventilated, should be maintained in a clean and sanitary
condition and should be under the charge of women trained in care of children and infants. A similar obligation is imposed on the employers under the Plantations Labour Act. Mine owners are also required, under the Mines Act and Mines Creche Rules, to maintain Crèches. There is in addition the provision for maternity benefits payable to women employees under the Employees State Insurance Act, the Maternity Benefit Act of 1961 and various State Laws. The Central Maternity Benefit Act provides for the payment of medical bonus of Rs.250/- and also additional benefits such as free medical aid, maternity bonuses, provision of crèches, additional rest intervals, and two nursing breaks of prescribed duration to the mother for nursing the child in addition to the rest intervals.

In order to safeguard the interests of the pregnant women-workers both the Central and State Acts provide that such women shall not be dismissed nor can a woman worker be discharged during the period of maternity leave. No pregnant woman should be required to do work or which involves long hours of standing or which in any way may adversely affect her health. Thus the woman workers in India are adequately protected by various enactments.

Various Acts are also in force to protect the interests of the women-workers in India. Thus, theoretically there are no impediments in the progress of Indian women. In the words of Smt. Nayantara Sahgal, a novelist of international repute, “With the laws of the land Indian women with the support of all intelligent and enlightened males there is not much the Indian women can not do to fight her exploitation and achieve personal and professional recognition if she sets her mind to it”.

77
If the women strive to come up, they have full support from the Constitution of India, various legislations as also from the enlightened public. There is no doubt that emancipation of women in India now depends upon themselves only.

3.6 HEALTH, SAFETY AND WELFARE

The Factories Act makes detailed provisions in regard to various matters on health, safety and welfare of the women workers. These provisions impose upon the occupiers or managers certain obligations to protect workers, unwary as well as negligent, from accidents and to secure for them in employment conditions conducive to their health, safety, and welfare. These provisions also require the occupiers or managers to maintain inspection staff and to make provision for maintenance of health, cleanliness, prevention of overcrowding, and amenities like fire-fighting, ventilation, drinking water, etc.,

3.6.1 HEALTH

The provisions of Sections 11 to 20 contained in Chapter III of The Factories Act deal with ensuring the health of the workers in the conditions under which the work is carried on in the mills.

i. Cleanliness (Sec. 11).

The mill shall be kept clean and free from effluvia arising from any drain or other nuisance. Accumulation of dirt and refuse shall be removed daily; the floors of every work room shall be cleaned at least once in every week by washing, with disinfectant, where necessary, or by some other effective method. Where a floor is liable to become wet in the course of any manufacturing process to such extent as is capable of being drained, effective means of drainage shall be provided and maintained.
ii. Disposal of wastes and effluents (Sec. 12).

Effective arrangements shall be made in every mill for the treatment of wastes and effluents due to the manufacturing process carried on therein, so as to render them innocuous, and for their disposal.

iii. Ventilation and temperature (Sec. 13).

Effective and suitable provision shall be made in every mill for securing and maintaining in every workroom (a) adequate ventilation by the circulation of fresh air, and (b) such a temperature as will secure to workers therein reasonable conditions of comfort and prevent injury to health.

iv. Dust and fume (Sec. 14).

In every factory in which, by the reason of the manufacturing process carried on, there is given off any dust or fume or other impurity of such a nature as is likely to be injurious or offensive to the workers employed therein, effective measures shall be taken in the mill for prevention of inhalation or accumulation of dust and fumes in work-rooms. If for such a purpose any exhaust appliance is necessary, it shall be applied as near as possible to the point of origin of the dust, fume or other impurity and such point shall be enclosed so far as possible. A stationary internal combustion engine shall not be operated unless the exhaust is conducted into the open air. Other internal combustion engines shall not be operated in any room unless effective measures have been taken to prevent accumulation of fumes there from as are likely to be injurious to workers employed.

v. Artificial humidification (Sec. 15).

In respect of all mills, in which the humidity of the air is artificially increased, the State Government may make rules prescribing standards of humidification. It may also make rules regulating the methods used for artificially increasing the humidity of
the air. It may further make rules prescribing methods to be adopted for securing adequate ventilation and cooling of the air in the workrooms. In any mill in which the humidity of the air is artificially increased, the water used for the purpose shall be taken from a public supply or other source of drinking water or shall be effectively purified before it is so used.

**vi. Over Crowding (Sec. 16).**

There shall not be overcrowding in any room of the mill so as to be injurious to the health of the workers employed therein. There shall be at least 500 cubic feet of space for every worker. In calculating the space of 500 cubic feet, no account shall be taken of any space, which is more than fourteen feet above the level of the floor of the room.

**vii. Lighting (Sec. 17).**

In every part of the mill where workers are working or passing there shall be provided and maintained sufficient and suitable lighting, natural or artificial or both. All glazed windows and skylights used for the lighting of the work rooms shall be kept clean on both the inner and outer surfaces and free from obstruction. Effective provision shall also, so far is practicable, be made for the prevention of glare, either directly from a source of light or by reflection from a smooth or polished surface and the formation of shadows to such an extent as to cause eye strain or the risk of accident to any worker.

**viii. Drinking water (Sec. 18).**

In every mill, effective arrangements shall be made to provide and maintain at suitable points conveniently situated for all workers employed therein a sufficient supply of wholesome drinking water. All such points shall be legibly marked 'drinking water' in a language understood by a majority of the workers employed in the mill. In every mill wherein more than 250 workers are ordinarily employed,
provision shall be made for cool drinking water during hot weather by effective means and for distribution thereof.

**ix. Latrines and urinals (Sec. 19).**

In every mill, separate enclosed accommodation of latrines and urinals of prescribed types for male and female workers shall be provided for. Such accommodation shall be adequately lighted and ventilated and maintained in a clean and sanitary condition. Sweepers shall also be employed for keeping latrines, urinals and washing places clean. In mills wherein more than 250 workers are ordinarily employed-(a) all latrine and urinal accommodation shall be of prescribed sanitary types; (b) the floors and internal walls, up to a height of three feet, of the latrines and urinals and the sanitary blocks shall be laid in glazed tiles or otherwise finished to provide a smooth polished impervious surface; and (c) the sanitary pans of latrines and urinals shall be thoroughly washed and cleaned at least once in every seven days with suitable detergents or disinfectants or with both.

**x. Spittoons (Sec. 20).**

In every mill, there shall be provided a sufficient number of spittoons in convenient places and they shall be maintained in a clean and hygienic condition. No person shall spit within the premises of a factory except in the spittoons provided for the purpose. A notice containing the provision of spittoons in the mill and the penalty for spiting anywhere except in the spittoons shall be prominently displayed at suitable places in the premises.

**3.6.2 SAFETY**

The provisions of Sections 21 to 41 of Chapter IV of The Factories Act deal with ensuring the safety of the workers in the conditions under which the work is carried on in the mills. The safety provisions are absolute and obligatory in their character and the occupier of every mill is bound to follow them.
i. Fencing of machinery (Sec. 21).

In every mill, every dangerous part of any machinery shall be securely fenced by safeguards of substantial construction, which shall be constantly maintained and kept in position while the parts of machinery they are fencing are in motion or in use.

ii. Work on or near machinery in motion (Sec. 22).

Where in any mill it becomes necessary to examine any part of machinery while the machinery is in motion, such examination shall be made only by a specially trained adult male worker wearing tight fitting clothing which shall be supplied by the occupier. The name of the person so engaged shall be entered in the prescribed register and he shall be furnished with a certificate of his appointment. It is observed that no woman or young person shall be allowed to clean, lubricate or adjust any part of machinery in motion if it would expose the woman or young person to risk of any injury from any moving part.

iii. Employment of young persons on dangerous machines (Sec. 23)

No woman or young person shall work on dangerous machines unless the worker has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed and received sufficient training to work on the machinery under adequate supervision by a person who has a thorough knowledge and experience of the machine. The State Government may prescribe the machines which in its opinion are of such a dangerous character that young persons ought not to work at them unless the requirements of this provision are complied with.
iv. Striking gear and devices for cutting off power (Sec. 24).

In every mill, suitable striking gear or other efficient mechanical appliance shall be provided and maintained and used to move driving belts to and from fast and loose pulleys which form part of transmission machinery. Driving belts when not in use shall not be allowed to rest or ride upon the shifting in motion. Further suitable devices for cutting off power are to be maintained in every workroom. When a device, which can inadvertently shift from ‘off’ to ‘on’ position, is provided in a mill to cut off power, arrangements shall be provided for locking the device in safe position to prevent accidental starting of the transmission machinery or other machinery with which the device is fitted.

v. Self-acting machines (Sec. 25).

No traversing part of a self-acting machine in any mill and no material carried thereon shall, if the space over which it runs is a space over which any person is liable to pass, whether in the course of his employment or otherwise, be allowed to run on its outward traverse within a distance of 18 inches from any field structure which is not part of the machine.

vi. Casting of new machinery (Sec. 26).

All machinery driven by power and installed in any mill after 1st April, 1949, every set screw, bolt or key on any revolving shaft, spindle, wheel or pinion shall be so sunk, encased or otherwise effectively guarded as to prevent danger. Further, all spur, worm and other toothed or friction gearing not requiring frequent adjustments while in motion shall be completely encased unless it is safely situated.
vii. Prohibition of employment of women and children near cotton openers (Sec. 27).

No woman or child shall be employed in any part of a mill for pressing cotton in which a cotton-opener is at work. If the feed-end of a cotton-opener is in a room separated from the delivery end by a partition extending to the roof or to a specified height, women and children may be employed on the side of the partition where the feed-end is situated.

viii. Hoists and lifts (Sec. 28).

In every mill every hoist and lift shall be of good mechanical construction, sound material, and adequate strength and shall be sufficiently protected by enclosures fitted with gates. It shall be properly maintained and shall be thoroughly examined, by a competent person at least once in every six months. A register containing the prescribed particulars of every such examination shall be kept. The maximum safe working load shall also be plainly marked on every hoist or lift, and no load greater than such load shall be carried thereon. The cage of every hoist or lift used for carrying persons shall be fitted with a gate on each side from which access is afforded to a landing. The gate shall be fitted with interlocking or other efficient device to secure that the cage cannot be moved unless the gate is closed.

ix. Lifting machines, chains, ropes and lifting tackles (Sec. 29).

In any mill, cranes and other lifting machinery (and every chain, rope and lifting tackle for the purpose of raising or lowering persons, goods or materials) shall be of good construction, sound material, and adequate strength, free from defects and properly maintained. They shall be thoroughly examined by a competent person at least once in every twelve months. A register containing the prescribed particulars of every such examination shall be kept. The aforesaid machinery shall not, except for the purpose of test, be loaded beyond the safe
working load which shall be plainly marked thereon together with an identification mark and duly entered in the prescribed register. If any person is employed or working on or near the wheel track of a travelling crane in any place where he would be liable to be struck by the crane, effective measures shall be taken to ensure that the crane does not approach within twenty feet of that place.

x. Revolving machinery (Sec.30).

In every room in a mill in which the process of grinding is carried on, there shall be permanently kept near each machine a notice indicating the maximum safe working peripheral speed of every grindstone or abrasive wheel, the speed of the shaft or spindle upon which the wheel is mounted, and the diameter of the pulley upon such shaft or spindle, and such speeds shall in no case be exceeded. Further effective measures shall be taken in every factory to ensure that the safe working peripheral speed of every revolving vessel, cage, basket, flywheel, pulley, disc or similar appliance driven by power is not exceeded.

xi. Pressure plant (Sec. 31).

If in any mill any part of the plant or machinery used in a manufacturing process is operated at a pressure above atmospheric pressure, effective measures shall be taken to ensure that the safe working pressure of such part is not exceeded. The State Government may make rules providing for the examination and testing of any plant or machinery and providing for additional safety measures.

xii. Floors, stairs and means of access (Sec. 32).

In every mill all floors, steps, stairs, passages and gangways shall be free from obstructions and substances likely to cause persons to slip and handrails shall be provided where necessary and there shall, so far as is reasonably practicable, be provided and maintained safe means of access to every place at which any person is at any time
required to work. When any person has to work at a place from where he is likely to fall at a distance exceeding two meters, unless the place is one which provides secure foothold and, where necessary secure handhold provision shall be made, so far as is reasonably practicable, by fencing or otherwise, to ensure the safety of the person so working.

xiii. Pits, sumps, openings in floors, etc., (Sec. 33).

In every mill every fixed vessel, sump, tank, pit or opening in the ground or in a floor shall be securely covered or securely fenced. Securely fencing a pit means covering or fencing it in such a way that it ceases to be a source of danger to those who have occasion to go near.

xiv. Excessive weight (Sec. 34).

No person shall be employed in any factory to lift, carry or move any load so heavy as to be likely to cause him injury.

xv. Protection of eyes (Sec. 35).

In every mill, screens or suitable goggles shall be provided for the protection of persons employed on, or in immediate vicinity of, mechanical or other processes, which involve any danger or injury to the workers sight. The risk of injury to the eyes may be from particles or fragments thrown off in the course of the process or by reason of exposure to excessive light.

xvi. Precautions against dangerous fumes (Sec. 36).

In any mill no person shall be required or allowed to enter or be permitted to enter any chamber, tank, pipe, or other confined space in which dangerous fumes are likely to be present to such an extent as to involve risk of persons being overcome thereby, unless it is provided with a manhole of adequate size or other effective means of egress. Further, no person in the factory shall enter or be permitted to enter the confined space unless (a) all practicable measures have been
taken to remove fumes and to prevent any ingress of fumes; (b) a certificate in writing has been given by a competent person after a test that the space is reasonably free from dangerous gas, vapour or dust fume; (c) the worker is wearing suitable breathing apparatus, and a securely attached to a rope, the free end of which is held by a person standing outside the confined space.

xvii. Precautions regarding the use of portable electric light (Sec. 36A).

No portable electric light or any other electric appliance of voltage exceeding twenty-four volts shall be permitted for use inside any chamber, tank, vat, pit, pipe, flue or dust is likely to be present in such chamber, tank, vat, pit, pipe, flue or other confined space, unless adequate safety devices are provided and no lamp or light other than that of flame-proof construction shall be permitted to be used in the mill.

xviii. Precautions in case of fire (Sec. 38).

Every mill shall be provided with such means of escape for all the persons in the event of fire, and the necessary equipment and facilities for extinguishing fire. Effective measures shall be taken to ensure that all the workers are familiar with the means of escape in case of fire and have been adequately trained in the routine to be followed in such case. The State Government may make rules prescribing the means of escape to be provided in case of fire and the nature and amount of fire-fighting apparatus to be provided and maintained.
xix. Power to require specifications of defective parts or tests of stability (Sec. 39).

If it appears to the Inspector that any building or part of a building, machinery or plant in a factory may be dangerous to human life or safety, he may ask the occupier or the manager or both to furnish drawings, specifications and other particulars as may be necessary to determine whether such building, ways, machinery or plant can be used with safety, or to carry out the tests in the specified manner.

xx. Safety of buildings and machinery (Sec. 40).

If any building or part of a building or any part of ways, machinery or plant in a mill is in such a condition that it is dangerous to human life or safety, the Inspector may serve on the occupier or the manager or both of the factory an order in writing specifying the measures which in his opinion should be adopted and requiring them to be carried out before a specified date. Where it appears to the Inspector that the use of any such building, machinery, etc., involves imminent danger to human life or safety, he may prohibit its use until it has been properly repaired or altered.

xxi. Maintenance of building (Sec. 40-A).

Where it appears to the Inspector that any building or any part of a building in a mill is in such a state of disrepair as is likely to lead to conditions detrimental to the health and welfare of the workers, he may serve on the occupier or manager or both of the factory an order in writing specifying the measures which should be taken and requiring the same to be carried out before such date as is specified in the order.
xxii Safety Officers (Sec. 40-B).

In every mill wherein 1,000 or more workers are ordinarily employed, the occupier shall, if so required by the State Government by notification in the Official Gazette, employ such number of Safety Officers as may be specified in that notification. The duties, qualifications and conditions of service of Safety Officers shall be such as may be prescribed by the State Government.

xxiii. Power to make Rules (Sec.41)

The State Government may make rules requiring the provision in any factory of such further devices and measures for securing the safety of persons employed therein as it may deem necessary.

3.6.3 WELFARE

The provisions of Sections 42 to 50 contained in Chapter V of The Factories Act deal with ensuring the welfare of the workers. The various provisions in this regard are as follows:

i. Washing facilities (Sec.42).

In every mill, adequate and suitable facilities for washing shall be provided and maintained for the use of the workers therein; separate and adequately screened facilities shall be provided for the use of the male and female workers; such facilities shall be conveniently accessible and shall be kept clean.

ii. Facilities for storing and drying clothing (Sec.43)

The State Government may make rules requiring the provision therein of suitable places for keeping clothing not worn during working hours and for drying of wet clothing.
iii. Facilities for sitting (Sec. 44)

In every mill, suitable arrangements for sitting shall be provided and maintained for all workers obliged to work in a standing position, in order that they may take advantage of any opportunities for rest which may occur in the course of their work.

iv. First-aid appliances (Sec.45).

The first-aid boxes or cupboards with the prescribed contents shall be maintained in every mill. There shall be at least one such box or cupboard for every 150 workers. In every mill wherein more than 500 workers are ordinarily employed there shall be provided and maintained an ambulance room of the prescribed size, containing the prescribed equipment. The room shall be in charge of such medical and nursing staff as may be prescribed and those facilities shall always be made readily available during the working hours of the mill.

v. Canteens (Sec.46).

The State Government may make rule requiring that in any specified mill wherein more than 250 workers are ordinarily employed, a canteen or canteens shall be provided and maintained by the occupier for the use of the workers.

vi. Shelters, rest rooms and lunch rooms (Sec.47).

In every mill wherein more than 150 workers are ordinarily employed, there shall be provision for shelters, rest rooms and a suitable lunch room where workers can eat meals brought by them with provision for drinking water. However, any canteen maintained in accordance with the provisions of Sec.46 shall be regarded as part of the requirements as stated above provided further that where a lunch room exists; no worker shall eat any food in the work room. The shelters or rest rooms or lunch rooms shall be sufficiently lighted and ventilated and shall be maintained in a cool and clean condition.
vii. Crèches (Sec.48).

In every factory wherein more than thirty women-workers are ordinarily employed, there shall be provided and maintained a suitable room or rooms for use of children under the age of six years of such women [Sec.48(1)]. Such rooms shall be maintained in a clean and sanitary condition and shall be under the charge of women trained in the care of children and infants. The State Government may make rules for the provision of additional facilities for the care of children belonging to women-workers including suitable provision of facilities (a) for washing and changing their clothing, (b) of free milk or refreshment or both for such children, and (c) for the mothers of such children to feed them at the necessary intervals.

viii. Welfare officers (Sec.49).

In every mill wherein 500 or more workers are ordinarily employed the occupier shall employ in the factory such number of welfare officers as may be prescribed. The State Government may prescribe the duties, qualification and conditions of service of such officers.

3.7 THE MATERNITY BENEFIT ACT, 1961

This Act has been passed to regulate the employment of women during maternity period and to provide for maternity benefit. The Act provides for maternity benefits like, 12 weeks leave for child birth, one month medical leave on Medical Certificate, 6 weeks leave for miscarriage. This Act also provides for the payment of medical bonus of Rs. 250/-, if no pre-natal confinement and post-natal care is provided. The Inspectresses of Labour and Inspectors of Labour are notified as Inspectors under the Act. Social security is provided to a worker under the Workmen Compensation Act of 1923, E.S.I Act of 1948, Employees Provident Fund Act of 1952 and the Payment of Gratuity Act of 1972.


3.8 THE EQUAL REMUNERATION ACT, 1976

The Equal Remuneration Act, 1976 is an Act to provide for the payment of Equal Remuneration to men and women-workers for the prevention of discrimination on the ground of sex, against women in the matter of employment and for matters connected therewith or incidental thereto and for the purpose of providing increasing employment opportunities for women. This Act also provides for constitution of Advisory Committee to advise the Government with regard to the extent to which women may be employed in establishments or employments as the Central Government may by Notification specify in this behalf. The Advisory Committee under the Equal Remuneration Act at the State level has been constituted with the Secretary to Government, Labour and Employment Department as the Chairman and the Joint Commissioner of Labour (Conciliation) as the Secretary. The Government has appointed the Commissioner of Labour, Joint Commissioner of Labour, and Inspectors of Labour as Inspectors under the Equal Remuneration Act for carrying out the purpose of this Act.

The Government has also notified the Conciliation Officers at the level of Labour Officer or Assistant Commissioners of Labour as the Authorities for the purpose of hearing and deciding claims arising out of non-payment of wages at equal rates to men and women-workers for the same work or work of a similar nature.

A SUM UP

The political awakening of Indian women began in early twenties of this century. It gathered strength through a national movement that enlisted men and women as co-soldiers and co-workers under the leadership of Mahatma Gandhi. Yet in all these years’ women could not make use of their full constitutional and legal rights partly because of historical, social and cultural factors. Women form an
important part of the workforce in India. They require special treatment. Women have got important bearings of home life as well as the health of future generation. Hence society is primarily concerned with the conditions of their employment. Prevention of exploitation of working women is the aim of all the legislation regarding women. The main inspiration of such protective legislation was provided by terms setup by the International Labour Organization since 1919.

The inequalities and discrimination exercised upon them by traditions of the past centuries could not be easily eradicated. This chapter therefore reviewed the present status of women in political, social and economic life of the country and protective legislation for women-workers in India.

Women took active part in the political life of the nation. Indian women of today have equal rights of voting for all the elections for different legislatures including Parliament and also for the post of President of India. Incidentally it is both interesting and important to remember that the first citizen of India is a lady. They have also equal rights for all trade union activities including elections. These momentous steps of political and economic equality for men and women were the most significant features in the history of India for nearly a thousand years. Previously women had led a bitter and frustrating struggle for these rights which were so easily conceded to them on the achievement of Indian independence. The high success rate of women in Indian politics does not reflect any special preference of the electorate for women. Given the discrimination against women, a woman has to have exceptional ability to be nominated in the first place and hence women candidates are likely to be more gifted and more likely to win than men candidates. There is a proposal to have a reservation of one third for women representation in Indian Parliament.
Various Acts are in force to protect the interests of the women-workers in India. Thus, theoretically there are no impediments in the progress of Indian women. If the women endeavour to come up, they have full support from the Constitution of India, various legislations as also from the enlightened public. There is no doubt that emancipation of women in India now depends upon themselves only.

The Factories Act makes detailed provisions in regard to various matters relating to health, safety and welfare of the women workers. These provisions impose upon the occupiers or managers certain obligations to protect workers, unwary as well as negligent from accidents and to secure for them employment conditions conducive to their health, safety, and welfare. These provisions also require the occupiers or managers to maintain inspection staff and to make provision for maintenance of health, cleanliness, prevention of overcrowding, and amenities like lighting, ventilation, drinking water, etc.,

The Maternity Benefit Act, 1961 was passed to regulate the employment of women during maternity period and to provide for maternity benefit. The Act provides for maternity benefits like 12 weeks leave for child birth, one month medical leave on Medical Certificate, 6 weeks leave for miscarriage. This Act also provides for the payment of medical bonus of Rs. 250/-, if no pre-natal confinement and post-natal care is provided. The Inspectresses of Labour and Inspectors of Labour are notified as Inspectors under the Act. Social security is provided to a worker under the Workmen Compensation Act of 1923, E.S.I Act of 1948, Employees Provident Fund Act of 1952 and the Payment of Gratuity Act of 1972.

The Equal Remuneration Act, 1976 is an Act to provide for the payment of equal remuneration to men and women workers and for the prevention of discrimination on the ground of sex against women
in the matter of employment. This Act also provides for the constitution of the advisory committee to advice the government with regard to the extent to which women may be employed in establishments as the central government may by notification specify in this behalf. The advisory committee under the Equal Remuneration Act at the State level has been constituted with the Secretary to Government, Labour and Employment Department as the Chairman and the Joint Commissioner of Labour (Conciliation) as the Secretary. The Government has appointed the Commissioner of Labour, Joint Commissioner of Labour, and Inspectors of Labour as Inspectors under the Equal Remuneration Act for carrying out the objectives of this Act.
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