CHAPTER 6

SOCIAL SECURITY FOR WOMEN WORKERS IN UNORGANISED SECTOR

Various studies have shown that economic dependence of women is predominant cause of their subordination. Thus, a change in the structure of the economy whereby women are assigned a major productive role would be a way to improve their status. Economic independence is a foundation on which any structure of equality for women can be built.\(^1\) Hence the employment of women have opened up new vistas for women; shifting interest from household duties to work outside. In the modern world women have to perform dual responsibilities in being a house wife, a mother as well as an employee and a producer of income for her family.\(^2\)

Society being male dominated, women workers receive still poor recognition and value especially for women workers in the informal sector, the double burden of combining the tasks of production and reproduction is even more arduous despite the statutory provisions to ensure fair working conditions for women in India and also the specific provisions for the protection and welfare of women workers.

According to the information provided by the office of Registrar General and Census Commissioner of India as per census 2011, the total number of female workers in India is 149.8 million comprising of 121.8 and 28.0 million in rural and urban areas.

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respectively. Out of total 149.8 million female workers, 35.9 million females are working as cultivators and another 61.5 million are agricultural labourers. Of the remaining 8.5 million are in household industry and 43.7 million are classified as other workers. As per census 2011, the work participation rate for women is 25.51% as compared to 25.63% in 2001. The work participation rate of women was however 22.27% in 1991.\textsuperscript{3} Merely 6% of the women workers are in formal sector and the remaining that is majority of the women workers are employed in rural area, in that, 87% amongst them are labourers and cultivators.\textsuperscript{4} Thus women constituted a significant part of the workforce of India.

### 6.1 CAUSES OF UNORGANISED WOMEN WORKERS

Decline in the number of female world over is an indicator of the discrimination against the female’s right from their birth. The reasons for this discrepancy include, among other things, harmful attitudes and practices, such as female genital mutilation, son preference which result in female infanticide and pre-natal sex selection using techniques like amniocentesis, chorine biopsy and ultra-sound.\textsuperscript{5}

In most parts of the world today, the women are virtually absent from or the poorly represented in the decision-making processes. Their household work is invisible as it is performed inside four walls of the house and their work is not measured in


quantitative terms and thus not valued in national accounts. The contribution of the women to development is seriously underestimated and socially unrecognised. Even when women are remunerated for their work, their contribution is often undervalued. Women have shouldered a large part of the burden of developing countries in 1980s. To make up for lost family income, they have increased in employment for home consumption, worked long hours, slept less and often eat less to make substantial costs of structural adjustment that have gone largely unrecorded. In India, the situation of women is even worse than most of the developing countries of the globe today. Even after 68 years of its freedom despite the progress the war on inequality, discrimination, violence and also lack of empowerment is continuing. In addition to that there are various other manifestations of women’s poverty in India which include hunger and malnutrition, ill-health; increasing morbidity and mortality from illness; homelessness and inadequate housing; unsafe environments and their social discrimination and exclusion from the mainstream. This is mainly due to lower level of education among the women workers that are so crucial in determining the quality of employment and the ability to secure reasonable wages. Low level of education creates vulnerability at two levels. It first denies access to “good jobs” in organised sector. Secondly, it confines the workers to mostly manual jobs. Especially, women workers in rural areas are the worst victims of this double disadvantage. Hence, illiteracy coupled with extremely low level of education denies

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8 Ibid.
having access to better and possibly remunerative jobs and that it confines to casual manual labour.

The activities in the informal sector are such that it requires less skill and less capital and that is the reason for concentration of women for employment in informal sector. Apart from that the social norms and exigencies arising out of the double burden of work restrict their mobility. But the economic condition forces many women to be available for additional work as they wish to engage in productive activities if such work was available within the confines of their homes and also employer’s preference for female employee.\textsuperscript{10} Hence, women participate mostly in home based work system which is predominantly unorganised. This home based system is creating problem of invisibility of such enterprises as rural women workers in non agricultural sector are even more likely to work at home than urban women.\textsuperscript{11}

From the above analysis it is clear that women workers are mainly confined to unorganised sector of employment due to certain basic factors such as they do not get opportunities for acquiring skills and training in which they could thereby enable them to seek occupational or professional change from unorganised to that of organised sector of employment. Lack of education is major reason seriously delimits their employment options in the modern sectors of economy.

This is also mainly due to prevailing social relations between men and women as well as the structure of economy. Women is expected to bear maximum burden of domestic work in her family

\textsuperscript{10} Dr.S. Maria John and Dr.Mrs.A. Mary Grace, Women Labourers in unorganized sector, In: Dr.A.Selva Kumar editor, \textit{Plight of Unorganised Workers} (New Delhi: Discovery Publishing House Pvt Ltd), 2009 Edition, p.83

\textsuperscript{11} \textit{Ibid.}, at 20.
which is time as well as energy consuming due to which they are not in a position to acquire skills and training for getting jobs. Low skill attainment among women and their consequence relegation to job, which are labour intensive, time consuming and arduous in nature have been perpetuated by their unequal access to technology.\textsuperscript{12}

6.2 PROBLEMS OF UNORGANISED WOMEN WORKERS

Globalisation of economy and their new trends have created new opportunities for employment of women around the world. In many regions women’s participation in remunerated work in the formal and non-formal labour market has increased significantly and has changed during the past decade. While women continue to work in agriculture and fisheries, they have also increasingly involved in micro, small and medium sized enterprises.\textsuperscript{13} Policies of economic liberalisation have severely altered the relationship among the state, labour and business. Globalisation backed by rapid technological progress brings in its trail- multi skilling, alteration of the normal employment by new relation which are characterised as pervasive contractualisation, casualisation and informalisation. The transformation in production systems and growing competition had major impact on employment, skill formation and on gender roles leading to the shrinkage of jobs in the organised sector resulting in more people entering the unorganised sector particularly, women find easier to find jobs in the informal sector as it requires less skill.\textsuperscript{14}

\begin{itemize}
\item \textsuperscript{12} Kanak Kanthi Bagchi and Nirupam Gobi, \textit{Social Security for Unorganised workers in India} (Gurgaon: Madhav Books) 2012 Edition p.144.
\item \textsuperscript{13} Singh, Supra note 5, at 5.
\item \textsuperscript{14} Ramadhar Giri, \textit{Industrial Relations} (New Delhi: Adhyayan Publishers and Distributers) 2007 Edition p.76.
\end{itemize}
Women’s share in the labour force continues to rise and almost everywhere women are working more outside the household. In India, the sharing of economic activity by women is nothing new. From time immemorial women have been working both in the home and the outside. Although various studies are conducted on the level and type of female work participation in agricultural and other sectors in India, scholars agree that these have often failed to take note of women’s presence in or contribution to the labour force. Further, the gender bias is evident in the fact that while enumerating labour participation, there is a deliberate exclusion of a whole range of non market activities produced by women.\footnote{Dr.Anita Dash, \textit{Women Industrial workers: Perception and Dynamics} (New Delhi: Regal Publications) 2009 Edition, p.25.}

Women informal workers are concentrated mainly in agriculture so much so that three quarters of all employed women are in informal employment in agriculture. 90\% of those employed in manufacturing and construction are also unorganised sector workers. The workers in these sectors suffer from high incidence marginalisation and instance of casual wage workers which make them vulnerable to a range of exploitative practices.\footnote{Government of India, \textit{Report of the Working Group on Empowerment of Women}, (2006) p.35.}

Women in the unorganised sector require social security addressing issues of leave, wages, working conditions, pension, housing, child care, health benefits, maternity benefits, safety and occupational health. This can only be ensured by extending labour protection to those sectors in a manner that pays special attention to needs of women workers.\footnote{Government of India, \textit{Report of the Working Group on Social Security for the Twelfth Five Year Plan}, (2012-17), p.169.}
Hence, the need arises to make an in depth study of women workers employed in informal sector with a view to analyse the various issues and challenges of women workers concerning their wages, employment injury risks, maternity needs, extent of accessibility to social security measures and their vulnerability to exploitation. In this background an attempt has been made to focus the study only on specific employments and specific categories of women workers in the following units of this chapter as it is not possible to cover the vast segments of workforce in the unorganised sector.

6.3 WOMEN WORKERS IN CONSTRUCTION SECTOR

Construction workers are the backbone of the economy as they create the infrastructure necessary for industrial growth. In a globalising economy, it is they who are constructing the new economic zones, the information technology cities, the call centres and mega malls that are creating new forms of wealth today. It is they who are laying the cables for a rapidly expanding country-wide telecommunication network.\textsuperscript{18}

6.3.1 Types of Recruitment

Contracting, sub contracting and labour contract are the methods by which construction is carried out in the construction sector. There are broadly three types of recruitment:

- Workers directly recruited by contractor and housed in the site.

• Workers recruited from rural areas by sub contractors by advancing loans.

• Workers recruited from city slums by principal employers or maistries.¹⁹

In big construction sites the first and second types of recruitment were the most prevalent. There were women recruited by contractors retained on muster roll for long number of years but kept as temporary hands.²⁰

6.3.2 Working and Living Conditions Of Women Workers

Construction work is determined to a great extent by a number of factors including availability of raw materials, weather and health status of workers.²¹ In this sector, there is no direct employer-employee relation for most of the labourers as these labourers are recruited by labour sub contractors²² and hence not only is the labour invisible to the employers but employers are also invisible to labourers. The sub contractors determine the conditions of employment according to the convenience of the contractors.²³

The construction sector offers easy entry to the unemployed involving a large number of women workers in the unskilled category²⁴ which a number of them are young mothers with infant

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²² Supra note 18, at 45.
²³ Balbir Soni, Supra note 20, at 333.
children carrying construction material on their heads to the construction site while the skilled and semi skilled work is done by men. In this sector migrant workers, poor working conditions, low wages and inadequate provisions for social security are issues of concern. In construction sector, women workers live in miserable conditions with respect to payment of wages and working hours. Illiteracy and poverty has resulted in accepting low wages by the women that they may not fulfil their basic minimum needs. These workers do not have legal protection of employment or access to state supported social security measure. Security of the employment is available only to those workers who can establish permanent employment relationships with their employer. Women are paid less wages than men in construction sector for similar nature of work which violates the Equal Remuneration Act of 1976.

In a research which attempted to examine the socio-economic profile of women construction labours in Orissa, it was observed that the nature of work performed by women labourers, it is not uncommon to find women handling crowbar and spade in earth work. They help in removing over-ground materials once excavated, carry water, sand, jelly, cement mixture for foundation laying and concrete pouring etc., carry stones, bricks and tools required at the premises. Women also help in the erection of scaffolding by carrying centring materials do the smoothening of surfaces with available local materials before concrete mixture is poured for roofings and once a structure is laid, do the cutting operations etc. She also assist mason in his work thus, women do

26 *Supra* note 9, at 41.
27 *Balbir Soni*, *Supra* note 20.
28 *Supra* note 18, at 18.
combination of all types of work like carrying cement, water, sand, brick etc.\textsuperscript{29}

### 6.3.3 Occupational Hazards

Most of the studies related to construction industry identified that the work related to the construction sector is one of the most hazardous, with serious risks involved, especially physical terms and accidents. Most of the operations and tasks are labour intensive with non-existent or at best, inadequate safety measures. The immediate causes of the accident have been identified as follows:\textsuperscript{30}

- Failure or collapsing of scaffolding, centering or shuttering;
- Improper guards;
- Night work without proper lighting;
- Inadequate care regarding fire and against electrocution;
- Excessive noise;
- Handling of heave finished and semi finished material like metals;
- Blasting; and
- a work.

Women workers have to climb great heights carrying heavy loads. Falling from heights, electric shock, falling of objects and

\textsuperscript{29} Balbir Soni, *Supra* note 20, at 22.
\textsuperscript{30} *Supra* note 18, at 22.
collapse of ladder are the major reasons for fatal accidents. Apart from that accidents involving simple injuries occur every day. Women workers who carry the cement mix and wet bricks on their heads suffer serious problems like neck pain, chest pain, body ache and fever. In case of big sites where there is continuous employment, they are compelled to take rest for few days every fortnight to recoup their energies. Since there is no medical facility provided by the employers, the labours have to forego their work as well as wages for the day.\footnote{Balbir Soni, Supra note 20, at 336.}

6.3.4 Social Security and Welfare Legislations for Construction Workers

The Government of India has taken initiatives to protect the interest of the construction workers by enacting a number of legislations to ensure social security benefits, a minimum standard of wages and fair service conditions for the workers. Apart from that, the Government of India has set up welfare funds administered through Ministry of Labour for the employees employed in the sector. The legislations which have direct relevance to construction workers and great significance to women workers in the unorganised sector are as follows:

- Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996;

- Building and other Construction Workers Welfare Cess Act, 1996;

- Contract Labour (Regulation and Abolition) Act, 1970;
Inter-State Migrant Labour (Regulation of Employment and Conditions of Service) Act, 1979;

6.3.4.1 Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996

The Act applies to every building or other construction work establishment, which employs or had employed 10 or more workers. The Act has been passed to lay down conditions for registration of building workers and also have provisions for hours of work, wages for overtime work, maintenance of registers and records. The Act prohibits the employment of certain persons. The Act also contains provision relating to safety.

Working of the Act

The Act obligates the principal employer, contractor or sub contractor of construction workers to provide for facilities in the work place such as safe drinking water, urinals and toilets separately for male and female workers, first aid accommodation and creches for children of workers on sites where the number of women workers more than 50.

But in reality, several studies in the construction industries have found that creche facilities are not available on work sites. An

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32 Section 1(4) of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996.
33 Ibid., at Sections 11-17.
34 Ibid., at Section 28.
35 Ibid., at Section 29.
36 Ibid., at Section 30.
37 A person who is a deaf or has a defective vision or has a tendency to giddiness are prohibited in the employment under Section 31 of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996.
38 Sections 38-41 of the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996.
all India study and many state level studies have noted the lack of welfare measures such as creches for children, rest rooms for workers, separate toilets for women and potable drinking water. If housing was provided it was generally unfit for human living. One of the consequences of not having adequate creche facilities was that the children were often engaged in helping the workers and over time were inducted into the work force. In fact the workers begin their working life very young and continue till old age without any provision for old age benefits. With regard to the unskilled workers who do not work with a construction establishment continuously, may not get the benefits available under the Act.

Construction Workers Welfare Fund

The Building and Other Construction Work (Regulation of Employment and Conditions of Services) Act, 1996 provides for the constitution of fund. The fund is to be utilised for welfare measures like immediate assistance in case of accidents; Pensions to those who have completed sixty years; sanctions of loans for the purposes of construction of the house; premium for group Insurance Scheme; financial assistance for the education of the children of the beneficiaries; medical expenses for the treatment of the major ailments of the beneficiaries; maternity benefits for the female beneficiaries; grant loan or subsidy to a local authority or an employer in aid of any scheme; and pay annually grant-in-aid to a local or an employer who provides welfare measures. The fund is to be managed and operated by Welfare Boards to be constituted by the States. But in the construction industry a very large proportion of men and women are concentrated as casual workers. Particularly

39 Supra note 9, at 35.
women are clearly categorized as unskilled workers. The condition of women wage workers are quite dismal as it is not possible for them to make regular, timely contributions to the fund as per the requirement of law and hence they may not get the benefits available under the Act. In a study conducted on construction workers, it was opined by the construction workers that existing benefits are inadequate to meet their needs.

6.3.4.2 Building and Other Construction Workers Welfare Cess Act, 1996

The major source of the funds of the Boards shall be, collection of cess at the rate not exceeding 2 per cent of the cost of construction incurred by an employer under the Building and Other Construction Workers Welfare Cess Act. Although some State governments such as Tamilnadu and kerala have constituted welfare boards, several states are yet to conceive welfare schemes and implement the same.

6.3.4.3 Contract Labour (Regulation and Abolition) Act, 1970

The aim of the Act is to provide for the regulation of contract labour in certain establishment and provides for its abolition if certain conditions such as the nature of jobs being of perennial nature and connected with the core business of the principal employer are met. The Act does not apply when a contractor

40 Ibid., at 84.
41 Supra note 21, at 78.
42 Supra note 25, at 23.
43 Section 10 of the Contract Labour (Regulation and Abolition) Act, 1970.
employs less than twenty workers and this has led to manipulations by employers and contractors.\textsuperscript{44}

In construction sector, it is estimated that 10.7 million construction workers, accounting for 83 percentage of all construction workers in India were employed through contractors and did not receive minimum employment protection and benefits whatsoever.\textsuperscript{45} There are number of provisions in the Act relating to welfare, safety and health\textsuperscript{46} of the contract labour. For regulating its implementation certain registers, records, returns etc., are to be maintained by the principal employers and contractors. But the ground reality is neither the contractor nor the principal employer takes responsibility for worker’s welfare.\textsuperscript{47} For incidence, in case of construction workers temporary residential sheds which lack minimum facilities are provided though the Act provides provision of living accommodation of specified standard.\textsuperscript{48} The limitations in the law are such that the contractor stands to gain if he engages less than 20 workers and it provides a loophole for manipulations for employers and contractors. Hence, the coverage that this Act provides is far from satisfaction.\textsuperscript{49}

6.3.4.4 Inter-State Migrant Labour (Regulation of Employment and Conditions of Service) Act, 1979

This Act has been enacted to regulate the employment and conditions of service of inter-state migrant workers. Since this Act has been discussed in detail under chapter 4, an attempt has been made to focus the violation of laws by the contractors. Workers

\textsuperscript{44} Supra note 7, at 711.
\textsuperscript{45} Supra note 9, at 38.
\textsuperscript{46} Supra note 43, at Sections 32-41.
\textsuperscript{47} Supra note 9, at 38.
\textsuperscript{48} Ibid., at 35.
\textsuperscript{49} Ibid., at 711.
trained and engaged in construction activities exhibit a high degree of migration. The promise that constructors make at the time of recruitment about payment are not usually kept. No working hours are fixed for these workers and they have to work all the days in the week under extremely bad, often intolerable environments.\textsuperscript{50}

When a public hearing of women was conducted on the status of the implementation of Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 and the Building and Other Construction Workers Welfare and Cess act, 1996 it was observed that these legislations are not adhered by the employers. In case of cess collection only a few employers have been registered with the board and a paltry sum of less than one crore has been collected from them as cess. In the absence of cess collection, the board cannot provide construction workers the promised social security benefits.\textsuperscript{51}

\section*{6.4 WOMEN WORKERS IN BEEDI MANUFACTURING SECTOR}

Beedi manufacturing is a traditional ‘agro-forest’ based and ‘home-based’ industry in India. There are no single or uniform methods of production system in beedi sector. The method of production of beedi used by the manufacturers varies from state to state, district to district and sometimes block to block, depending on local conditions and also on the business exigencies of the manufacturer.

\textsuperscript{50} \textit{Supra} note 7, at 707.
\textsuperscript{51} \textit{Supra} note 18, at pp.51-52.
6.4.1 Methods of Production System in Beedi Sector:

The systems adopted in the manufacturing of beedis are as follows:\textsuperscript{52}:

**Factory System**

The entire process of beedi manufacturing takes place in factory premises under the direct control and supervision of owner or manager/supervisor. Workers work for a fixed time and are paid fixed wages for their work. Thus in the early 1970s, in many parts of the country beedi rolling was mainly undertaken in the factory.\textsuperscript{53} Later, beedi rolling was shifted to the house hold sector mainly as home-based work as this system was convenient to the employer to evade legal obligations relating to regularisation of conditions of work, social security laws and payment of wages.

**Home Based Work System**

Under the system, factories issue fixed quantities of raw materials like tobacco, thread, tendupatta directly to the individual workers who role beedis at their homes and after rolling deliver it back to the factory.\textsuperscript{54} Thus it is shifted to a large proportion of women engaged activity.

**Contract System**

In this system the factory owner/manager distributes raw material to intermediaries who in turn employs worker and get the


\textsuperscript{53} Supra note 9, at 72.

\textsuperscript{54} Ravi Prakash Yadav, Supra note 52, at 280.
beedi rolled. The system is widely prevalent whereby the contractors get the beedis rolled and the company does the checking, roasting, labelling and packing in its premises. In this system the agent get the beedi roll either in the shed maintained by him or at the workers home. In many parts of Tamil Nadu beedi rolling is undertaken as family enterprise.\textsuperscript{55}

**Sale-Purchase System**

Under this system the raw material is sold to the workers who roll beedis at their homes. Then the beedi rolled by the workers are brought by them by the same contractors or by the company. This system has been adopted by the factory owner to avoid the employer-employee relationship and obligations under the beedi workers laws. Under this system the factory owner registers different companies for the purposes which are as follows:

- One company is responsible for buying the raw material from the market and sells it to the second company;

- Second company then sells the raw material to the contractor or directly to the worker;

- The workers are required to prepare the beedis which are then ‘sold’ back by them to third company. This company is responsible for only ‘buying’ the finished beedis from the workers; and

- The fourth company is for ‘sell out’ the finished beedi in the market.

\textsuperscript{55} Supra note 9, at 72.
The most interesting fact is that all these companies are owned usually by one family itself.\textsuperscript{56} The worker has no choice and no control over the entire process. They are the mute spectators of the ‘play’. Under this system workers are exploited most and their wages are very low.\textsuperscript{57}

Two methods were used to reduce wages in which the workers rarely received the wages as fixed by the Minimum Wages Act. One, while supplying the leaves and tobacco to make thousand beedis, sufficient amount was not provided. The workers purchased the extra amount from the market for which they paid themselves, or the contractor refused the beedis or refused to give further work. The second method was to demand 110 beedis instead of 100 and then reject 100 beedis, on the account that they were not of the specified size. After all the deductions, the workers could be paid about 2/3 of the actual stipulated wage. All these were hidden costs borne by the beedi workers\textsuperscript{58} women work in beedi rolling also work as assistance to other activities like ring making, leaf cutting, closing beedi ends etc. The assistants would not get any wages, but their productivity was added to the main workers. In a survey conducted in Karnataka, the women workers reported that the registered company supplied raw material required for only 3 or 4 days as against 6 to 7 days in the past. On account of reduced supply of raw material, the per capita rolling had come down. Thus, the rejection of beedis on the grounds of poor quality and providing less than the required amount of raw material were methods used to reduce the wage payments and keep the wages below the minimum wage.\textsuperscript{59} As per the study conducted by the ILO in 2003, some of the contractors

\textsuperscript{57} Ravi Prakash Yadav, \textit{Supra note 52}, at 281.
\textsuperscript{58} \textit{Supra note 9}, at 73.
\textsuperscript{59} \textit{Ibid.}
reported that sometimes they reject all the beedis of a worker intentionally and this is not due to any sense of revenge but just to make up their own expenses and therefore they sell this beedis in the market at higher rates.  

6.4.2 Working and Living Conditions of Women Workers

Beedi manufacturing sector occupies an important place in the country next to agriculture, handloom and construction sector and hence beedi sector is known as the largest employers of the workers. But the conditions under which the women beedi rollers work is very poor and unhygienic. Most of them live in small room where they do the beedi work as also cook, sleep. Children are exposed to all the hazards of tobacco. Since log books, service book or identity card are not issued, there is absence of employer-employee relationship resulting in deprivation of benefits such as provident fund, maternity, bonus, leave with wages etc., to these workers.

6.4.3 Health Hazards

The health problems of the home workers are mainly due to inhalation of the tobacco dust and body ache due to the peculiar posture that had to be maintained at the time of rolling beedis. The common diseases that the beedi workers suffered from are asthma, tuberculosis, spondilitis and back strain. The continuous contact of beedi women workers with tobacco (nicotine) ultimately resulted from occupational disease like abdominal pains, bronchitis, anaemia,

60 Ibid.
62 Supra note 56, at 20.
63 Ibid., at 6.
64 Supra note 9, at 73.
asthma, tuberculosis, cancer, arthritis, swelling of lower limps, indigestion, and constipation etc.

Many studies have reported that women tend to suffer a number of problems relating to menstruation and pregnancy due to the peculiar postures which has to be maintained at all times of work. This has resulted in a large number of miscarriages due to the pressure created on their abdominal region. They also have a high degree of leuchorrea.\(^{65}\)

In this sector, it has been very difficult to organise the home-based workers resulting in majority of beedi women workers to work and live in extremely vulnerable conditions. There is a rising concern for the involvement of children, particularly girl child in the process of beedi rolling. It appears that the home-based nature of work and piece rate system of payment creates conditions for the involvement of family labour including that of children.\(^{66}\)

6.4.4 **Indebtedness and Gender Based Discrimination**

The low level of income and uncertain employment in the beedi industry resulted in the high level of indebtedness and hence the workers are unable meet their basic necessities and other social and cultural responsibilities. Since there have been in shift away from the ‘factory based production’ to the homes workers, women of family shared this responsibility of work of beedi rolling and they became a trained beedi workers. As woman cannot avoid any sort of work at her home she accepts the work of beedi rolling at home under economic and other compulsions, resulting in harmful effects

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such as loss of sleep, rest, leisure and even missing of meals. If the workers work in their own homes, then no direct employer-employee relations stand between them and hence, this industry is also an important example of gender based discrimination due to a shift away from 'factory based production' to the homes, of the workers. It is clear from many studies that men generally earned more than women. Employers and Contractors attitudes towards men and women workers differ. Women workers rarely get minimum wages prescribed by the State Governments.\footnote{Ravi Prakash Yadav, Supra note 52, at 290.}

In a study conducted in beedi manufacturing sector\footnote{Ibid., at 285.} it was noted that the beedi manufacturing involves certain skills that need to be imparted gradually. Girls are introduced in beedi manufacturing when they are as young as 4 years old. Out of 100, 50% beedi assistants were introduced work between 5-10 years of age and another 50% between 11-15 years of age. The 'apprenticeship' makes it easy for mothers to pass on their skill to their daughters by thus affecting the inter-generational occupational mobility.

6.4.5 Legislative Protection

To protect the interest of the workers and their families, legislations and welfare measures have been taken by the government which are as follows:

6.4.5.1 Beedi and Cigar (Conditions of Employment) Act, 1996

The aim of the Act is to regulate the working and service conditions of the beedi workers and related measures. This Act
obligates the employer to hold a valid license to use any place or premises as industrial premises.\(^{69}\) It also provides for cleanliness, ventilation and prohibits overcrowding of the premises\(^{70}\). The Act provides for arrangement sufficient supply of wholesome drinking water\(^{71}\) and also other welfare measures like sufficient latrine and urinal accommodation, washing facilities, creches, first aid and canteens.\(^{72}\) It provides for working conditions such as working hours, wages for overtime, interval for rest, spread over in any day and weekly holidays, substituted holidays etc. It also contains provisions regarding annual leave with wages and wages during the leave period.\(^{73}\) Section 24 of the Act specifically prohibits employment of children whereas section 25 deals with the prohibition of employment of women and young persons during hours except between 6a.m and 7p.m. The workers who roll the beedi within their homes are not covered if they are not employees of manufacturers under the Act. The enactment of such laws has led to more manufacturers shifting their production from factories to home-based workers.

### 6.4.5.2 Beedi Workers Welfare Fund Act, 1976

The main objective of this Act is to provide welfare facilities related to health, education, maternity, group insurance, recreation and housing to beedi workers and their families.

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\(^{69}\) Section 3 of the Beedi and Cigar (Conditions of Employment) Act, 1996.  
\(^{70}\) *Ibid.*, at Sections 8,9 and10.  
\(^{71}\) *Ibid.*, at Section 11.  
\(^{72}\) *Ibid.*, at Sections 12,13,14,15 and 16.  
\(^{73}\) *Ibid.*, at Sections 26 and 27.
6.4.5.3 Beedi Workers Welfare Cess Act, 1976

This is also an important legislation meant for the welfare of beedi workers. A fixed Cess of Rs.2 is levied per bundle of 1000 by ways of ‘excise duty’ on manufactured beedi.

Besides this, in April 1992 ‘Group Insurance Scheme’ was introduced by the Ministry of Labour under the social security scheme of Life Insurance Corporation of India for those beedi workers who are not covered under the Provident Fund. This insurance scheme provides insurance cover of Rs.10,000 in the case of nature death, Rs.25,000 in case of accidental death or permanent total disability and Rs.12,500 in case of partial disability to those beedi workers who have identity cards.

6.5 WOMEN IN BRICK-KILN INDUSTRY

Brick-kiln industry is a complimentary industry in the construction sector. Brick remains one of the most important building materials in India. The demand for bricks continues to rise in India, as the population increases and people aspire to have better standards for housing. Almost all the brick making units in India are in the unorganised sector, employing traditional technology. These units cater to the needs of the construction industry, in that, very few units have officially registered themselves as small-scale industrial units. The Indian brick industry is the second largest producer in the world next to China.74

The brick making industry employs a large number of skilled and unskilled labours. Workers employed in brick-kilns are mostly migrant labour brought from other areas either within or

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74 Singh, Supra note 5, at 13.
outside the state. These workers live in the huts or the quarters made for them by the employer in the vicinity of the brick-kiln. So workers have to remain away from their houses for merely 9 months.

Working conditions of migrant workers are severely adverse with long working hours in hazards environs. These migrant workers in most cases stay at the work site in temporary huts and shanties. There is no fixed working hours as the employer often expects them to be available for work all 24-hours of the day. These workers not only face adverse working conditions, their living conditions are also often deplorable.

There is no facility of safe drinking water, sanitation and health. In case of temporary migration, the migrants are not able to make use of the public distribution system due to non availability of ration cards.\(^75\)

Thus, migrant workers suffer due to lack of regulation in working hours and resulting harsh working and living conditions. These workers are not assured with as right to safe, adequate accommodation, right to organise, assured minimum wages and access to health and education services.\(^76\)

6.5.1 **Working and Living Conditions of Women Workers in Brick-kilns**

Sometimes migration of these labour is generally on a family basis and hence females too migrate along with the male members of the family especially with their husbands.\(^77\) Women migrant workers in brick-kilns are even more insecure because of the odd work hours.

\(^{75}\) *Supra* note 9, at 98.


\(^{77}\) *Singh, Supra* note 5, at 19.
They face exploitation in terms of adverse working conditions, lower wages and insecure living conditions. Often women workers move with the family and have the additional burden of domestic chores and child rearing. They suffer from malnutrition since they receive low wages than men due to violation of norms of the Minimum Wages Act, 1948. As they are illiterate and unskilled, they are made to work for long hours with no commensurate increase in wages. As a result they suffer from malnutrition. Even maternity benefits are not provided to them which still worsen their situation. Child care facilities are also lacking subjecting their children to the hazards at the work place as they have to accompany their parents to the work site by depriving basic education.\textsuperscript{78} Incidence of bonded labour is also found in brick-kiln industry\textsuperscript{79} Therefore, there was total absence of any regulation with none of the labour legislation being implemented. There are restrictions to movement and interaction with the non-bonded labourers.

\subsection{6.5.2 Occupational Hazards}

Workers in the brick-kiln industry suffer from respiratory problems arising from living and working twenty four hours of the day in the fumes emanating from the furnace. Workers had persistent cough and complained of body ache and exhaustion. Rudimentary facilities like drinking water and absence of health care contributed to their vulnerability to disease where women and children are equally exposed to the harsh life.\textsuperscript{80}

\begin{itemize}
\item\textsuperscript{78} Supra note 9, at 100.
\item\textsuperscript{79} Ibid., at 106.
\item\textsuperscript{80} Ibid., at 34.
\end{itemize}
These women workers work in hazardous conditions have no safety at their work place. There were no proper and essential devices provided to them for their safety. In a study conducted at Hissar division of Haryana, it was observed that the women carry the dried bricks to the trench, are not provided with hand gloves for protecting their hands and fingers from bruises and injuries. Similarly, those women who work in extreme dust all the time as unloaders of the trench are not provided with gas masks and goggles. In unloading operations there is always a possibility of some brick may falling on the hand of the workers while sorting and stacking the baked bricks as helmets are not provided to safeguard the workers.

6.6 WOMEN LABOURERS IN AGRICULTURAL SECTOR

According to the information provided by the office of Registrar General and Census Commissioner of India, as per the census of the 2011, out of total 149.8 million female workers, 35.9 million female workers are working as cultivators and another 61.5 million are agricultural labourers. From the report it is clear that women always played a key role in agricultural production as agricultural productivity is increasing dependent on the ability of women to function effectively as farmers.

Apart from that, women also constitute a special case because of their dual role that is they are responsible for the reproduction and maintenance of future labour force and at the same time are participants in the production process. The link

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81 Meenu Agrawal, Supra note 24, at 83.
82 Singh, Supra note 5, at 89.
84 Supra note 16, at 30.
between women and agricultural sector is sufficiently strong to warrant a detailed study.⁸⁵

Agricultural labourers take up material activities in agriculture in return for wages. Employment in agricultural sector is seasonal and intermittent in character because of seasonality of manual operations such as sowing, weeding, harvesting etc. in crop cultivation. This seasonality in agricultural operations drives the workers to migrate to other regions in search for employment during the lean periods.⁸⁶

### 6.6.1 Working Conditions

Agricultural labourers have been paid either on hourly basis or also in some cases, by a piece rate system. The piece rate system provides greater flexibility to the employer as it varies with the amount of work done and also has greater scope for manipulation. Overall, wage levels of agricultural labourers have been very low and their growth rates decelerated through the decade 1993/94-2004/05.⁸⁷ The Minimum Wages Act, 1948 is the only legislation which ensures minimum wages to workers in agricultural sector. But lack of minimum standards in daily wage rates in most of the states is alarming. In 2004-05 about 91% of the agricultural labourers received wage rates below the norms of National Minimum Wage and about 64% below the norms of National Commission for Rural Labour Minimum Wage in rural areas.

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⁸⁶ Supra note 9, at 125.

⁸⁷ Ibid., at 122.
There are no fixed hours of work as there are no laws to act as guidelines for the working conditions of agricultural workers. Wage labourers are subject to long working hours at meagre wages well below the minimum wage limit. Further, due to lack of opportunities, there is high level of unemployment and underemployment leaving the labourers with little bargaining power.\textsuperscript{88}

\textbf{6.6.2 Health and Occupational Hazards}

Agricultural workers, in general, suffer from certain specific health hazards due to extensive use of fertilizers, insecticides and pesticides and mechanization. The increasing use of chemicals and biological agents with hazard potential unknown to people; the indiscriminate use of agro-chemicals including pesticides, agricultural machineries and equipment, and their impact on health and safety of exposed population; pose serious safety and health risks for agricultural workers. Since the occupational safety and health services are out of the reach of this group their vulnerability is further accentuated. Pesticides are usually sprayed and it has been observed that the sprayer operators experience fatigue mainly due to carrying the sprayer load. The vibration arising out of powered sprayers also causes discomfort to the operator. The pesticide applicators, mixers and loaders are at the risk of exposure to toxic chemicals. It is not uncommon that the farmers broadcast pesticides or prepare pesticide solutions with bare hands. Improper handling of pesticides, spraying without wearing personal protective devices, oral poisoning of pesticides, etc., led to many sprayer related accidents. The health standard of female agricultural labour is week as they have to perform different types of duties at home, in family

\textsuperscript{88} \textit{Ibid.}, at 125.
and in farm. Especially in case of women workers, due to the use of agro-chemicals women are exposed to several health hazards such as gynaecological infections, arthritis, intestinal and parasitic infections.\footnote{National Commission for Women, \textit{Report on Impact of WTO on Women in Agriculture}, 2005, p.17.} Also, due to low education and awareness levels among the group, they are subject to greater health and occupational hazards. Since the farming sector is unorganised in character, there is an absence of statistics on farm related accidents and injuries. Female agricultural labours do not enjoy maternity leave and do not get proper rest after child birth.\footnote{\textit{Ibid.}, at 12.}

The risks of life of agricultural workers greatly increased by their poor health status due to the risk of exposure to toxic chemicals, low income levels and consequent low nutritional intake and constant physical labour aggravate the health problems. Lack of resources to pay for the health care compels the workers to become indebted.\footnote{\textit{Supra} note 9, at 129.}

Labourers are caught in a vicious circle and have no means to get out of the bondage and often the other family members were also compelled to offer their services due to abject poverty. The National Commission on Rural Labour also noted that there is still a sizeable incident of bonded labour in agriculture which reflects the changing labour requirements of employers under the impact of capitalist development.\footnote{\textit{Ibid.}, at 130.}

Increased indebtedness is noted as major reason for the spurt in farmer suicides during recent times across a number of
states. In most of the cases suicide victims were small and marginal farmers who could not sustain frequent price shocks.

### 6.6.3 Gender Dimension and Discrimination in Agriculture Work

“Some historians believe that it was women who first domesticated crop plants and thereby initiated the art and science of farming. While men went out hunting in search of food, women started gathering seeds from the native flora and began cultivating food, fodder, fibre and fuel”.\(^93\)

The nature and extent women’s involvement in agriculture continue to play a key role in the consideration of basic life supporting system such as land, water, flora and fauna. Studies on women in agriculture conducted in India shows that women contribute for more to agricultural production in spite of their severe handicaps with respect to gender differences in work.\(^94\)

Women activities in agriculture are concentrated in few operations within agriculture as weeding, transplanting and harvesting. Women are forced to accept agriculture work in their own village because it has become essential part of men to migrate in search of better-paid work as employment in agriculture is available for fewer days of work throughout the year. Obviously women are filling this vacuum as they cannot migrate as easily as men. Farmers, on the other hand, also seem to prefer women as agricultural workers as he can squeeze is labour costs by using

\(^93\) _Supra_ note 89, at 9.
\(^94\) _Ibid._, at 9.
lower-paid women workers or else the farmer has to face with the increase in cost of production require for modern agriculture.95

According to the notifications issued by the Ministry of Labour, Government of India on November 11, 1999, all the agricultural operations where women predominate such as sowing, transplanting, weeding and harvesting have minimum wages fixed in the unskilled category. Ploughing, which is predominantly a male operation has a minimum wage fixed in the semi-skilled category and use of a tractor or operation of a tube well is categorized as a skilled activity and accordingly the minimum wages fixed are higher. This has implications for the actual wages received by the workers since the minimum wages gave the signal that the operations identified as women’s work are unskilled and could be paid at lower rates. While transplanting is a very skilled activity and weeding is a back-breaking work, the minimum wages appear to take into account the use of technology to categorise an activity as semi-skilled or skilled. Such a categorization works against the interest of women.96 Women agricultural workers, although they represent a big proportion of all women workers, continue to receive lower wages than men. The Ministry of Labour puts the difference at 60 percent of men’s wages.97

Thus gender discrimination in wages and differentials in earnings are acute and persistent problem where equal pay legislation is not effectively implemented.

95 Ibid., at 17.
96 Supra note 9, at 132.
97 Supra note 89, at 16.
6.6.4 Technological Progress and Women in Agriculture

The introduction of capital intensive technologies in the agricultural sector has had differential impact on men and women. Men usually do semi-skilled or skilled and hence when new machines are introduced, the work is taken over by men resulting in reduced employment opportunities for women. Increasing casualisation of work, falling income and increasing insecurity of employment endanger the interests of women as they have remained in the agricultural sector, accepting the traditional practice of paying wages to women less than men. They cannot aspire to seek jobs outside home because of traditional prejudices, male domination and conservation attitudes.

6.7 Women Labourers in Tanneries

Leather industry is one of the major export earning industries of India. An attempt has been made to focus on the leather industry from a gender perspective due to the following reasons:

- A larger proportion of the women workers in the industry seem to be concentrated in the most polluting stages of tanning process;

- The proportion of women workers (to total women workers) working in the ‘unorganised sectors’ (of the leather industry) is relatively more than the proportion of women workers in other ‘unorganised’ industries;

- There is constantly a tendency on the part of employers to deny the employment of women and children along
with the a tendency to deny access to researchers to inspect the units and/or talk to the workers.\textsuperscript{98}

Leather industry can be generally divided into leather (tanning and finishing) and leather product industry. With respect to details regarding number of leather units and persons employed, it is difficult to obtain a comprehensive figure because most of the leather tanning units are not registered and there is also a wide prevalence of job work i.e. a type of contract labour, whether it is quite common to note a single premise being owned by one employer but hired out to several employers, and here workers are employed on temporary basis.\textsuperscript{99} Women workers are mostly employed in semi skilled or low skilled operations. There is a bias in estimation of leather workers generally and a women in particular.\textsuperscript{100}

\textbf{6.7.1 Working Conditions and Occupational Hazards}

The requirements of leather do not allow it to be a clean job. Manual operations, lack of proper tools coupled with poverty and ignorance of the workers make working conditions worse, particularly in small and cottage industries.\textsuperscript{101} Tanneries are dangerous place of work, at times even fatal. In spite of the improvements in this industry which has given scope for an upward trend in the foreign market, plight of workers cannot be said to have improved resulting without any substantial improvement in their working conditions. In order to analyse the impact of women with reference to leather tanning industry, it is essential to have a clear


\textsuperscript{100} Millie Nihila, \textit{Supra} note 98, at 310.

\textsuperscript{101} \textit{Ibid.}, at 314.
idea about the process of tanning, extent of machinery, chemicals used and development of technology that has taken place in these processes. Firstly, the pre-tanning operation is primarily to free the derma from epidermis, flesh, hair and bristles. This is achieved by a combination of manual, mechanical, chemical and machinery used process the hide/skins and also operating parts of various machines require efficient guarding. There are revolving drums, in-running rollers and knives which has to be inter-locked. Particular care is needed when two persons are employed in one machine. All transmission machinery, belts, pulley and gear wheels should be securely guarded. These guards would save the machine operator from being ‘caught between’ hazards that is the chances of arm or palm being caught between the rollers and knife while feeding the hide/skin to the machine. The machinery used to process the hides/skins also present hazard to workers with the capacity of inflicting bruises, scrapes, crushing, abrasions or amputations of the upper extremities.

Previously for fleshing, hairing and for other related pre-tanning processes, hand tools like heavy knives of various designs were used. Even now, in most of the tanning units, the proprietors resort to hand a tool for certain processes. Trimming is done with a sharp knife of small size in all the units. Hazards occur when these tools are not properly maintained. The use of hand tools may lead to callosities of hands and fingers.102

Apart from that, excessive noise can cause permanent hearing damage. But the noise standard is one of the most commonly violated standards. The nature of raw material handled in these industries itself is not good for the health of the workers.

102 Ibid.
Workers are engaged in handling, transferring, curing, soaking, trimming and weighing of hides/skins, which may be exposed to anthrax. Apart from anthrax, other occupational diseases occur in tanneries due to inhalation of dust produced in a variety of tanning operations. Dusts of vegetable tanning materials, lime, chemicals and leather arising in the process are responsible for causing chronic bronchitis.\(^{103}\)

There are also chemical hazards such as chemical dusts produced during the loading of skins into the drums and workers may be exposed to dust causing health hazards such as bladder cancer and nasal cancer. In this industry much work has to be done by hand only for certain operations of biological and chemical nature which cannot be mechanised.

### 6.7.2 Impact of Tanneries on the Health of Women Workers

The workers in the leather industry are prone to various health hazards in case preventive steps are not taken at their workplace.\(^{104}\) In most tanneries women are employed as helpers were they made odd jobs like setting, pailing, drying etc. This is more dangerous than the actual process of tanning. It has been pointed out that women workers are actually made to get into the rotating drums (containing toxic chemicals) to take the hide/skin out of the drum and to clean it.\(^{105}\)

During a pilot survey conducted in Didigul, a health worker reported that the women working in tanneries and allied workshops are not just infected by common tannery disease like dermatitis,\(^{103}\)

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\(^{103}\) Ibid., at 315.

\(^{104}\) Supra note 99, at 14.

\(^{105}\) Millie Nihila, Supra note 98, at 318.
anthrax, bronchitis, tuberculosis, stomach-ache, fever, etc., apart from menstrual disorders, miscarriage is quite common; instances of stillbirth, pro-lapse of uterus are reported, foetus are also affected, resulting in the birth of deaf and dumb, and mentally challenged children, most of the babies are unhealthy.\textsuperscript{106} Due to hot and humid work atmosphere, women begin to case hair early. Since mother’s milk gets contaminated the children are prone to milk diarrhoea.

Two most striking aspects of the tanning and leather industry are:

- The most polluting part of the operation (up to pre-tanning) are performed in premises not technically covered under the Factories Act;

- Most of the above operation employs women and children.

There is an ‘official’ undercount of the actual numbers of women and children employed in tanneries. The ‘official’ recognition of the hazardous conditions in which the workers (especially women and children) in these operations work is also to that extent denied. Since it has been notified under the Factories Act, that employment of women and children should be prohibited in tanneries and leather works, employers take advantage of this provision by not recruiting women and children in their factories/workshops on permanent basis, but they recruit them as casual labourers; their names are not registered in the daily attendance. A concomitant result has been the payment of less wages to women doing the job as men, excepting for the coolies.\textsuperscript{107}

\textsuperscript{106} Ibid.
\textsuperscript{107} Ibid., at 319
Most of the technological developments are introduced with the aim to maximise profit. On one hand, this results in retrenchment and displacement of women workers. On the other hand, work, which is really strenuous and hazardous due to the primitiveness of the methods and tools, is left untouched by technology. This is true with leather tanning industry also. Many of the processes in tanning are done independently in the name of job work.

It is seen that when female workers are prohibited by the Factories Act to do certain jobs, organised factories mostly followed it and did not employ women in the prohibited processes. But the jobs thus prohibited by the Factories Act were done by women in the unorganised sector.\textsuperscript{108}

It was also seen that men worker in tanneries were provided with uniforms but women were not provided the same. The occupier shall provide and maintain the following articles of protective clothing:

- Water-proof footwear, leg coverings, aprons and gloves for persons employed in process involving contact with chrome solutions, including the preparations of such solutions;

- Gloves and boots for persons employed in lime-yard; and

- Protective footwear, aprons and gloves for all persons employed.

\textsuperscript{108} Ibid.
The gloves, aprons, leg coverings or boots may be of rubber or leather but in the first two above cases, the gloves and boots shall be of rubber. The gloves may not be provided to persons fleshing by hand or employed in processes in which there is no risk of contact with lime, sodium sulphide or caustic soda.\textsuperscript{109}

Women are not provided waterproof footwear, leg coverings, and/or aprons and gloves. Women workers while getting into the pits cover their legs with tyre tubes; instead of aprons they use plastic sheets to cover their waist. The gloves, if provided, were not provided to each worker individually. Since they are all common property that are not maintained properly. Hence, if a particular worker who has been affected by anthrax uses these gloves and leaves it without washing it thoroughly, another worker, who uses it next, is likely to be infected by the anthrax bacteria.\textsuperscript{110} Studies in leather tanning industry have found that workers without foot wear worked for long hours with their bare feet soaked in chemicals, animal wastes and decomposing offal.\textsuperscript{111}

Leather tanning industry is hazardous not only to workers, but people living close to tanneries also experience certain specific health problems. Besides, there are environmental hazards created by this industry.

6.8 WOMEN DOMESTIC WORKERS

Of all the unorganised employments, domestic work is the least regulated informal work. The estimated number of domestic workers employed in the country was 41.3 lakh in which 27.9 lakh

\textsuperscript{109} According to Chapter IX of the Factories Act, 1948 the State Governments are empowered to make rules in this regard.

\textsuperscript{110} Millie Nihila, Supra note 98, at 320.

\textsuperscript{111} Supra note 9, at 230.
were women. A domestic worker is one carries out the house hold chores on part-time or full-time basis for one or the more employer/employers for nominal wages. Female and children domestic workers constitute a large proportion of today’s migrant worker population. Most of the women workers in involved in it come from poor and needy families.

6.8.1 Working Conditions of Domestic Workers

There is no written contact between the employer and domestic worker and so there is more scope for exploitation of these workers even to bargain wages.

Paid domestic workers operate in the invisible sector of the economy. The low wages that reflect the status of the domestic labourer make it impossible for her to be anything other than a marginal earner within her own house hold. The fact is that agricultural labourers are paid daily, where as domestic labourers are paid only on a monthly basis indicates that the women’s wages seem to be merely supplement to the male wage. Though these women work hard to earn their livelihood, yet the returns for their hard work are shockingly low. The remuneration paid to women sometime includes labour of their daughters. Thus young girls work as a components of their mothers.

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113 Supra note 9, at 86.
116 Meenu Agarwal, Supra note 24, at 65.
One of the major problems in domestic work is that the domestic workers work in more than one house which is a big constraint in implementing any law regulating domestic work and welfare schemes for domestic workers.\textsuperscript{117} This is due to poor wage structure, the part time workers serve more than one employer and strived hard to earn money.\textsuperscript{118} The conditions of work are not like those of any other formal sector work. For instance, they do not get maternity benefit, pension etc., like any other women worker in the formal sector. In order to eke out their existence, they often agree to their work at nominal wages. Increment of wages is the most sensitive matter resulting in losing their job because someone is ready to work at the same or lower wage rate.\textsuperscript{119} There are many incidences which show that they are extremely poor, illiterate and so they are migrated to the urban areas in search of employment as they do not need any special skill.\textsuperscript{120}

There is no system of social security to protect the domestic workers, there are no fixed hours to work. In many cases, they are not provided adequate food and they also do not earn enough to buy adequate clothing. Though the Ministry of Labour has adopted legislative measures for social security and welfare of unorganised workers, there, if at all effected, are typically applicable to those employed in agriculture, construction, trade, transport and communication; domestic workers are left out. Thus domestic work force is excluded from labour laws that look after important

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\textsuperscript{120} Supra note 7, at 7.48.
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employment- related issues such as conditions of work, wages, social security, provident funds, old age pensions and maternity benefits. Hence, they have no right to employee’s compensation, weekly holidays and minimum wages.\textsuperscript{121}

6.8.2 Problems of Domestic Workers

Domestic work sector is growing rapidly in urban areas as it is the important source of employment and thus it is one of the largest sectors of work in urban areas. Due to the innovation in technologies, the nature of work underwent significant changes but still the conditions in which a domestic worker works remain unaltered. There is no minimum level of protection to domestic workers. The domestic work is hard to regulate, being invisible because it is performed in the privacy of the employer’s household. Though, some states like Karnataka, Kerala, Andhra Pradesh, Tamil Nadu, Bihar and Rajasthan have set minimum wages rates for domestic work. But it is clear from the reports that domestic servants do not have adequate social security measures, security of tenure and regulation of working hours etc. The issues are addressed in the petition filed by the National Domestic Workers Welfare Trust for the recognition of rights of domestic workers and in response to the petition, the central government has included domestic workers in the schedule of employment in the Unorganised Worker’s Social Security Act, 2008.\textsuperscript{122}

\textsuperscript{121} Supra note 9, at 87.
\textsuperscript{122} National Domestic Workers Welfare Trust v. Union of India Writ Petition (Civil) No(s). 160 of 2003.
The task force on domestic workers highlighted the issues of domestic workers are as follows:\textsuperscript{123}

- Domestic workers remain invisible and under reported, both in the labour market and in the society;
- Domestic work takes place in an un-conventional work place and hence, it is not regulated;
- Domestic workers are illiterate and unexposed to the urban way of life;
- It is characterised by lack of job security, decent wages, proper work conditions, defined work time, weekly holidays and the work is generally undervalued;
- Many domestic workers remain overworked, under paid and unprotected; and
- Domestic labourers insufficiently covered by social protection, social security measures such as health insurance, maternity protection, old age security and accidental benefits.

The laws that are enforceable alone can protect the rights of domestic workers. But mere legislative measures without their enforcement will not be going to change the status of these workers. So, it is the responsibility of the state to create suitable monitoring and enabling mechanism to ensure proper implementation.

6.9 EMPLOYMENT OF WOMEN IN PLANTATION INDUSTRY

Plantation is a unique sector as it has been instrumental in developing the under-developed areas of the country. The entire family of a worker is employed in plantations as plantations are located in remote areas.\textsuperscript{124} This workforce does not possess any skills other than ploughing leaf and the workers are mostly landless.\textsuperscript{125}

6.9.1 Working Conditions

Plantation is an important industry wherein a majority of workers in the plantation sector are women.\textsuperscript{126} This is due to the fact that soft hands and nimble fingers are suited especially for the tea leave plucking and picking of coffee seeds, women workers dominate the employment scene in the plantations.\textsuperscript{127} The pay period of workers are divided into five main categories viz., daily, weekly, ten days, fortnightly and monthly. The survey report reveals that majority of workers are paid wages on fortnightly. Many of the workers are not aware of the provisions the Minimum Wages Act, 1948, Equal Remuneration Act, 1976 and the various other labour Acts enacted for their welfare. The high rate of illiteracy and low level of awareness make them more vulnerable to exploitation by the employer.\textsuperscript{128}

According to the survey conducted in four plantations viz., tea, coffee, rubber and cardamom by the Government of India, in

\textsuperscript{126} \textit{Ibid}.
\textsuperscript{127} \textit{Ibid}., at 4.
\textsuperscript{128} \textit{Ibid}.
2008-2009 the majority of the workers are engaged in manual jobs and hence plantation industry is predominantly of manual type.129

6.9.2 The Plantation Labour Act, 1951

The plantation Act was passed to provide for the welfare of plantation labour by regulating the conditions of work in plantations. It applies to all tea, coffee, rubber, cardamom plantations etc., which admeasures five hectares of more and in which 15 or more persons are employed or where employed on any day of the preceding 12 months.130 The provisions regarding health, safety and welfare the workers are governed by the Plantation labour Act, 1951. The Act requires employer to provide and maintain, readily available, medical facilities for the workers and their families as may be prescribed by the State Governments.131 The Act makes it obligatory for the employers to provide and maintain necessary housing accommodation for every worker and his family residing in the plantation.132 The Act also requires the employer to provide sickness and maternity benefits133, and other forms of social security measures.

6.9.3 Medical Facilities

All over India, the position regarding the provision of medical facilities in tea plantations shows that out of the total 47 units covered during the course of the field study by the Government of India in 2008-09, 42 units are providing medical facilities, to the

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129 Survey was conducted by the Government of India in all the major plantation growing states viz., Assam, Tamil Nadu, West Bengal, Kerala, Karnataka and Tripura.
130 Section 1(4) (a) of the Plantation Labour Act, 1951.
131 Ibid., at Section 10.
132 Ibid., at Section 15.
133 Ibid., at Section 32.
workers and their family members. Out of 34 units covered in coffee plantations only five units (i.e., is about 15%) are providing medical facilities, out of five units which are providing medical facility, four are having their own dispensaries with four medical officers and four attendants to look after the health of plantation workers and their family members.\textsuperscript{134}

Out of 33 units in rubber plantation units only one third of the total rubber plantation units covered during the course of the survey are providing medical facilities to the workers and their family members. About 27 percent of the units covered are having their own dispensaries with 8 medical officers and 17 nurses/attendants. In Tamil Nadu, out of 4 units 75 percent units are providing medical facilities while in Tripura only 25 percent units are providing medical facilities.

Out of 18 units only 33 percent of the cardamom plantation units studied is providing medical facilities to the workers and their family members. Five units out of 16 in Kerala and one out of 2 units in Tamil Nadu are providing medical facilities to the workers. Only 2 units, one each in Kerala and Tamil Nadu cardamom plantations are having their own dispensaries with 1 medical officer each. However, no nurse/attendant is found employed in any of the cardamom units dispensary.

It is evident from the report that adequate medical facilities in the form of well equipped dispensaries are provided in tea plantations but the position is not satisfactory in other plantations.

The employers of some plantations expressed their inability to comply with the entire requirement due to high cost involved.

\textsuperscript{134} Supra note 125. at 47.
The major problem of women workers is to consult male doctors in the dispensary. Women workers, who are by and large, illiterate, feel shy of consulting male doctors especially in gynaecological problems. Facilities for pre natal and post natal treatment are also inadequate and are to be improved. Frequent and regular medical check-ups also go a long way in improving the health of the plantation workers in general and women workers in particular.¹³⁵

6.9.4 Maternity Benefit and Creche Facilities

The Plantation Labour Act, 1951 obligates the employer that any plantation where in 50 or more women workers employed on any day during the preceding 12 months should provide and maintain suitable creches for the children below the age of six years.¹³⁶ Such creches should have adequate accommodation and it should be adequately lighted, ventilated and maintained in clean and sanitary condition.

Out of 34 sample units in coffee plantations only five units viz., 3 units in Karnataka and 1 each in Tamil Nadu and Kerala are providing creche facility to the women workers. In rubber plantations, it is observed that out of 33 units 6 units have provided creche facility. In Kerala out of 15 units, 20 percent units have provided creche facility with trained women worker in each unit while in Tamil Nadu out of 4 units 50 percent units are providing this facility by engaging women worker to look after the children.

¹³⁵ Ibid., at 48.
¹³⁶ Supra note 130, at Section 12.
However no creche facility is provided by all the 4 units surveyed in Tripura state under the rubber plantation.\textsuperscript{137}

In tea plantation units, out of 6 units cent percent units are providing are providing maternity benefits. In Tamil Nadu out of 10 units around 90 percent units are providing maternity benefits to the women workers while in Kerala out of 4 units around 75 units are providing maternity benefits.\textsuperscript{138}

In coffee plantations, out of 22 units in Karnataka around 77 percent units are providing maternity benefits whereas in Tamil Nadu out of 8 units around 62 percent units are providing maternity benefits. In Case of Kerala out of 4 units about 75 percent units are providing maternity benefits to women workers.\textsuperscript{139}

In rubber plantations, out of 15 units in Kerala 45 percent of units are providing maternity benefits and in Karnataka out of 10 units 90 percent of units are providing maternity benefits. In Tamil Nadu out of 4 units 75 percent of units are providing maternity benefits.\textsuperscript{140}

In cardamom plantations out of 16 units in Kerala 43.8 percent of units are providing maternity benefits whereas in Tamil Nadu out of 2 units no unit is providing maternity benefits.\textsuperscript{141}

A case study on the status of women working in the tea plantations it was revealed that most of the women workers have been found to suffer from various diseases chest pain, knee pain, back ache, gastritis, anaemia, and cough and cold, etc. according to

\textsuperscript{137} Supra note 134.
\textsuperscript{138} Ibid.
\textsuperscript{139} Ibid.
\textsuperscript{140} Ibid.
\textsuperscript{141} Ibid.
the garden physician many of the diseases result from mal nutrition and under nutrition. Hence, women labourers in the tea garden live a relatively shorter life. It has been observed that in most of the cases women worker generally look older than the real age and this may be due to hard work and less nourishment.142

To conclude, it is evident from the field work undertaken by Government of India that the women workers are deprived of maternity benefits, proper child care benefits and various welfare facilities such as recreational facilities, separate urinals and latrines for women workers.143

6.10 WOMEN WORKERS IN HANDLOOM SECTOR

Handloom weaving of cloth, as occupation of ancient vintage continued to be the main source of livelihood of a large number of families in the country.144 Workers are involved in performance of varieties of activities starting from preparation, marketing raw materials, the weavers are forced in poor work place with unscientific technologies leading to occupational stress.145

6.10.1 Pattern of Employment

In this Industry the pattern of employment includes the following categories of workers.146

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143 Supra note at 125.
144 Supra note 9, at 60.
**Independent Weaver**

The persons owns his loom and other instruments of production and produces yarn and raw materials himself and pursues his business including marketing of goods as an independent craftsman.

**The Master-Weaver**

The person supplies yarn and other materials to a group of weavers working under him, who may be called ‘dependant weavers’. The weavers working under such master weavers are paid only wages at piece-rate basis and their earnings not being affected by fluctuations in the market conditions.

**Coolie Weavers**

The collie weavers have nothing of their own except their skill and labour, and works in factories during specified hours and receive wages on a piece-rate basis.

**Weavers Who are Members of Co-operative Societies**

This category of workers gets their supply of yarn from the operative societies and work at their homes with their own looms or hired looms. The cloth woven by them is taken back by the society on payment of pre-determined wages. At the close of the accounting year, the weaver members are paid dividends.

But, whether the weavers are working independently within the co operative structure or under master weavers come under the marketing chain because the weavers have become highly dependent on the traders and the co operative societies for marketing their raw
material demand and marketing their products.\textsuperscript{147} Even the co-operative societies have to obtain work orders from the various agencies and traders who procured the products and send them to various show rooms all over the country and also to the export markets. In present study an attempt has been made to focus on work related problems faced by the women workers in handloom industry because whenever handloom sector is in crisis, the burden of carrying through the crisis is most on the women weavers that increase in physical, psychological and social pressures. In these circumstances, it became important to analyse the sufferings of women as they are vulnerable section of handloom sector.

In micro study of weavers and weaving in chinnalpatti, it was identified that the profession of weaving has become a more and more complicated in a globalised atmosphere with the advent of power loom sector, the weavers are extremely finding it difficult to meet both the ends. Further, it was revealed that weavers had sold their kidneys to wipe off the debts and advances incurred by them at the time of their employment. Further, the study identified that bonded labour system prevailing in many of the power loom centres.\textsuperscript{148}

6.10.2 Working and Living Conditions

Women weavers are highly involved in weaving activity and they need to be empowered in various ways by making improvement in their working, living and wage conditions. The problems being faced by women handloom weavers has been brought out by the

\textsuperscript{147} Supra note 9, at 61
study conducted by Centre for Handloom Information and Policy Advocacy are discussed as follows:\textsuperscript{149}

- There is no recognition to women’s work as weavers, even though women play a major role in all-pre-loom operations and take on labour-intensive activities.

- Women do not have access to government identity cards, except in cases of where they are widowed or are members of the co-operatives.

- Regarding the living conditions of the women workers, sheds have been provided to workers who weave on looms owned by master weavers due to lack of housing and other facilities most sheds do not have any primary facilities such as bath rooms or toilets and hence, women face problems to take bath or use toilets.

- Number of women employees in the co-operatives is low.

- 80\% of women in handloom sector are working for more than 10 hours per day in handloom production for very low wages.

The powerloom industry is a case in point where large segments of artisans and workers are not independent producers but are either employed on piece-rate basis or working on substantive orders for large industrial units. While advantages are being claimed

by the principal employers on the ground that it is small or cottage industry, the female labour force is actually working for a pittance.\textsuperscript{150}

\section*{6.10.3 Occupational Hazards}

Due to poor working postures, women suffer from back and joint pains, reproductive and respiratory disorders. In a case study of Mubarakpur based on field survey 2010-2011, it has been found that the female weavers frequently suffer from various diseases as their work is more physical and hence they suffer from leg pain, back pain, joint pain and respiratory diseases respectively.\textsuperscript{151} Apart from that, the high dust level gives rise to respiratory problems and diseases. Byssionosis is a disabling lung disease caused by inhaling cotton flags for several years and is characterised by tightness in the chest and breathlessness.\textsuperscript{152}

From the above, it is clear that low wages, poor working and living conditions, heavy indebtedness and non-ownership of looms are the ground realities that remain untouched despite of various government schemes for weavers.\textsuperscript{153} For instance, the destitute and poverty force the weavers out of the Handloom Weavers Comprehensive Welfare Scheme as many weavers expressed their inability to pay the premium for renewal of the Health Insurance Scheme.\textsuperscript{154}

\textsuperscript{150} Dr.Falendra k.Sudan, Gender Bias in Employment of Women in Urban Informal Sector, In: Dr. (Mrs.) S.Murty, \textit{Women and Employment} (Jaipur: RBSA Publishers), 2000 Edition, p.95.


6.11 WOMEN WORKERS IN MATCH INDUSTRIES

The employment in match industry is more or less akin to type of manufacture in beedi industry. Match work industry plays a vital role in providing employment opportunities to the women workers as they are engaged as home workers. Recently a study has been conducted which has revealed that 82% of the match production in India exist in the ‘handmade small scale (67%) and cottage (15%) sectors, where technology has remained obsolete. Though the match products have been produced in many places of the country, the contribution of the Tamil Nadu in this field is very remarkable. This industry has been largely concentrated in areas viz., Virudhunagar, Sattur, Kovilpatty, Kalugumalai, Sriviliputtur, and Gudiyatham. The Second National Commission also highlighted that the working condition in fireworks and match industry were dangerous and full of hazards. In the match making industry in Sivakasi, deaths were reported due to fire.

6.11.1 Working Conditions

Match industry is primarily employing unskilled workers. Since they are not educationally qualified or technically experienced they can learn to gain knowledge from only doing work. A total number of 170 units comprising 150 units of final match productions in Tamil Nadu and 20 units of splints production in Kerala are selected for the survey conducted by the Government of India. Based on the data collected during the survey, it is evident that male members are mostly engaged in the manual works as drivers, supervisors, watchmen and machine workers. Similarly

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155 Supra note 146, at 48.
157 Supra note 9, at 33.
women workers are mainly engaged in other manual works like match box filling or packing, printing and labelling of match boxes. In Tamil Nadu about 91% of the match box filling and packing are being done by women workers this is due to the abundance of cheap women workforce available in the surrounding areas. In case of Kerala all the Splints collection or match box filling works are carried by women workers only.

6.11.2 Wage Payment

In order to assess the wage level, the data was collected on the system of payment of wages to the workers the survey results showed that the men workers were paid more than the women workers in all the industries in case of maximum wages in time rated workers. Among all other occupations in the match industries, the machine operator earns higher in a day. Further, in case of a male machine operator, the average daily earnings are slightly higher when compare to a women machine operator in Tamil Nadu. Even in state of Kerala similar trends are visible. Not only in machine operating, it is also evident that the average daily basic wages of male workers is higher when compare to women workers in all the occupations in match industry.\footnote{Supra note 156, at 32.}

6.11.3 Bonus

Bonus to the workers is paid with an aim to increase the production and productivity. The type of bonus paid to the workers varied from place to place. Bonus payments are paid for various reasons like festival, increased productivity, etc.\footnote{Ibid., 20.} All the workers in
Kerala and about 76% of the workers in Tamil Nadu are paid by the employer during the financial year 2013-14.\footnote{Ibid., at 20-21.}

**6.11.4 Deductions from Wages**

The deductions from wages are made for various reasons like loan advance, group insurance, employees’ provident fund, employees’ state insurance etc. The deductions are made mostly for employees’ provident fund, employees’ state insurance as employers have statutory obligations towards the welfare of the workers.\footnote{Ibid., at 21-22.}

**6.11.5 Maternity Benefits and Creche Facilities**

The labour bureau has observed the information for evaluating the implementation of Maternity Benefit Act. It is noticed from the results that around 43% of the units are providing maternity benefits to the women workers in the match units.\footnote{Ibid., at 37.} Out of 150 units in Tamil Nadu about 27% of the match units are providing creche facilities. But in the state of Kerala none of the sample units is providing creche facility.\footnote{Ibid., at 34.}

From the above analysis, it is observed that majority of workers are women. They are illiterate and are engaged only in manual works.
6.12 SOCIAL SECURITY LEGISLATION RELATING TO WOMEN WORKERS

The data on women working in the informal sector reveal a mix of positive and negative trends.\textsuperscript{164} Flexible, precarious and now far more dynamic than the formal sector in many regions, the informal sector has observed female labour and continues to do so.\textsuperscript{165}

Thus, a change in the structure of the economy whereby women are assigned a major productive role would be a way to improve their status.\textsuperscript{166} Economic independence is a foundation on which any structure of equality for women can be built. A study undertaken by the Indian Institute of Science, Bangalore, on the work output of men and women, concluded that women work harder than men. Hence, labour laws relating to women-related Acts were passed from time to time to provide security and protection to the women employees in order to ensure them not only gender equality by eliminating discrimination but also for promoting social equity and decent work.

Some of the major labour legislations relating to women’s employment in India are passed to protect the interests of women at work against the problem of low income, unequal pay, poor working conditions, long working hours, insecurity of tenure which are as follows:

\textsuperscript{166} Mamta Rao, \textit{Supra} note 1, at 388.
6.12.1 Equal Remuneration Act, 1976

A significant milestone in acceptance and promotion of the principle of “equal pay for equal work” was earlier reached with the establishment of the International Labour Organisation in 1919. The preamble to the ILO Constitution of 1919 stressed, inter alia, the urgency of the recognition of the principle of “equal remuneration for work of equal value” and the preamble to the Constitution as amended in 1948 reaffirmed that it was urgent that conditions of labour be improved with regard to the principle of “equal pay for equal work”. The convention on elimination of all forms of discrimination against women, 1979 provides that the state parties should embody the principle of men and women in their national constitutions and to ensure through the law and other appropriate means, practicable realisation of this principle. In order to recognise the principle of equal remuneration for equal value as laid down in ILO Equal Remuneration Convention 1951(No.100) and to implement Article 39(d) of the Constitution of India contained in the Directive Principles of State Policy, The Equal Remuneration Act, 1976 was enacted.

Scope and Coverage

The Act is applicable to establishments or employments notified by the Central Government. The applicability of the Act does not depend upon the financial viability of the employer to pay equal remuneration under the Act.

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168 Section 1(2) and (3) of the Equal Remuneration Act, 1976.
Obligations of the Employer

- The Act imposes an obligation on the employer to pay equal wages to men and women employees employed in his establishment for performing same work or work of similar nature.\(^{170}\)

- The employer should not make any discrimination against women while doing recruitment of employees for work or work of a similar nature or in respect of their promotion, training or transfer etc.\(^{171}\)

- Every employer should maintain an up-to-date register containing particulars such as category of workers, nature of work, number of men and women employed, rate of remuneration paid etc.\(^{172}\)

Working of the Act

Though Equal remuneration Act imposes duty on the employer to ensure equal pay for equal work for men and women, it does not impose the duty on the employer to evaluate whether the work of women and men is of a similar nature. The Act also does not establish any institutional procedure by which such evaluations would be made. Hence, the labour officer find difficult to detect violations of the Equal Remuneration Act to deal with the issues connected with the wage differentials. National Commission for Enterprises in Unorganised Sector also observed that since men and women often segmented in different activities in which women

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\(^{170}\) Supra note 167, at Section 4.

\(^{171}\) Ibid., at Section 5.

\(^{172}\) Ibid., at Section 8.
predominant are valued poorly even in cases where work may be arduous or may require high skills.  


Prior to independence, working conditions of workers in factories, mines, plantations, constructions or any other work place were extremely miserable. Men, women and children worked from sun rise to sun set without rest and lunch break. They were working in unhygienic conditions coupled with unsafe standards. Particularly the condition of women workers was inhumane. There were no basic facilities, which women normally needed at the place of work. Long working hours, carrying heavy loads even during pregnancy, working in hazardous occupations, absence of separate latrines and urinals, no portable drinking water, absence of lighting and ventilation, and lack essential safeguards made the life of women employees miserable. 

After attaining independence it was fully realised that the overall economic development in the country is not possible unless women are also brought in its main stream. Accordingly, the Indian Government took various steps to protect women employees from unsafe working conditions and health hazards. Due to peculiar reasons such as their physical build-up, poor health on account of repeated pregnancies, responsibilities towards children and due to nature of occupation in which they are engaged, the special protection has been provided to women employees. The relevant

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173 Supra note 9, at 208.
provisions of safety, health and welfare for the women employees are discussed as follows:

**6.12.2.1 Prohibition of Women in Night Work**

The Factories Act 1948 stipulates that no women shall be required or allowed to work in any factory except between 6.00 am to 7.00 pm. Similarly in Mines Act, 1952; Beedi and Cigar (Conditions of Employment) Act, 1966; and Inter State Migrant Workmen (Regulation of Employment and Conditions of Service) Central Rules, 1980 also contain provision for prohibition of women to work during night hours.

**6.12.2.2 Prohibition of Employment of Women Near Cotton Openers**

The Factories Act, 1948 prohibits the employment of women in any part of factory for pressing cotton in which a cotton opener is at work. However if faced end of a cotton opener is in a room separated from the delivery end by a partition extending to the roof or to such height as the inspector may in any particular case may specify in writing, women may be employed on the side of the partition where the faced end is situated.

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175 Section 66 (1)(b) of Factories Act, 1948.
176 Section 25 of The Mines Act, 1952; Section 46(1)(b) of Beedi and Cigar (Conditions of Employment) Act, 1966; Rule 11[2][ix] of Inter State Migrant Workmen (Regulation of Employment and Conditions of Service) Central Rules, 1980.
177 Section 27 of the Factories Act, 1948: No women or child shall be employed in any part of a factory for pressing cotton in which a cotton opener is at work.
6.12.2.3 Prohibition of Employment of Women in Dangerous Operations

The Factories Act, 1948, authorizes the State Government to prohibit employment of women in dangerous operations where it is of the opinion that any manufacturing process of operation carried on in any factory exposes any person(s) employed in it to a serious risk of bodily injury, poisoning, or disease. It may make rules applicable to any factory or class or description of factories in which manufacturing process or operation is carried on specifying the manufacturing process or operation and declaring it to be dangerous and prohibiting or restricting the employment of women in the manufacturing process or operation.\textsuperscript{178}

6.12.2.4 Prohibition of Employment of Women in Mines

Mines are of two types, surface and underground. Every underground mine also, has some aspects of the work which is carried out on the surface. When the ore is taken out from the deep mines it is to be loaded on trucks or wagons etc. Women are employed in this loading operation. Women also do the same type of work in open quarries. Sometimes they are employed for breaking stones.\textsuperscript{179}

The Mines Act, 1952 also, authorises the Central Government to make regulations for prohibiting, restricting, or regulating the employment of women in mines or in any class of mines or in particular kinds of labour which are attended by danger

\textsuperscript{178} \textit{Supra} note 175, at Section 87.
\textsuperscript{179} \textit{Jetli, Supra} note 124, at 74.
to the life, safety or health of such persons and for limiting the weight of any single load that may be carried by any such person.\textsuperscript{180}

**6.12.2.5 Hours of Work**

According Factories Act, 1948\textsuperscript{181}, the maximum permissible hours of work for men and women are 48 per week. The Mines Act, 1952,\textsuperscript{182} further spells out that the daily hours of work of adult workers should not exceed nine hours above ground, and also Beedi and Cigar Workers (Conditions of Employment) Act, 1966, stipulates that no employee shall be required or allowed to work in any industrial premises for more than nine hours in any day or for more than 48 hours in any week.\textsuperscript{183}

Similarly, the Building and other Construction Workers’ (Regulation of Employment and Conditions of Service) Central Rules, 1998, provides that no building worker employed in building or other construction work shall be required or allowed to work for more than nine hours a day or 48 hours a week.\textsuperscript{184} However, as per the Plantations Labour Act, 1951\textsuperscript{185}, the maximum permissible hours of work in a week for men and women are 45 hours in plantations.

Long hours of work in unorganised sector such as brick-kilns, fireworks, leather manufacture, handloom industries etc., have been highlighted by numerous studies.\textsuperscript{186}

\textsuperscript{180} Section 57(j) of the Mines Act, 1952.
\textsuperscript{181} Section 51 of the Factories Act, 1948) and Section 30(1) of the Mines Act, 1952.
\textsuperscript{182} Supra note 180, at Section 30(1).
\textsuperscript{183} Section 17 Beedi and Cigar Workers (Conditions of Employment) Act, 1966.
\textsuperscript{184} Rule 234 of the Building and other Construction Workers’ (Regulation of Employment and Conditions of Service) Central Rules, 1998.
\textsuperscript{185} Supra note 130, at Section 19(1).
\textsuperscript{186} Supra note 9, at 36.
6.12.2.6  Restriction on Heavy Loads

In the Factories Act, 1948 as well as the Mines Act, 1952, authorise the appropriate government to fix the maximum load that may be lifted by women workers to safeguard against the dangers arising from lifting the heavy loads. While fixing the maximum loads to be lifted by women employees, the appropriate government takes their physique into account.

The Factories Act, 1948, stipulates that no person shall be employed in any factory to lift, carry, or make any load so heavy as to likely to cause injury.\textsuperscript{187} In this context, the state governments may make rules prescribing the maximum weights which may be lifted, carried, or moved by adult men, adult women, adolescents, and children employed in factories or in any class or description of factories in carrying out any specified process.

The Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Central Rules, 1998, lays down that an employer shall ensure at a construction site of a building or other construction work that no building worker lifts by hand or carries overhead or over his back or shoulders any material, article, tool, or appliances exceeding in weight the maximum limits set out in the Central Rules.

In fish processing units in export zones, a study found that lifting and carrying of 200 kg. or even 450 kg. rubs packed fish and ice on wet and slippery floors often lead to falls, injuries, strained

\textsuperscript{187} Supra note 175. at Section 55(1).
muscles and slip discs the study also documented health problems relating to uterus.\textsuperscript{188}


Women face work environment problems like lack of toilets and water which causes various reproductive health problems. As basic hygiene is not available, women often get reproductive tract infection and urinary tract infections.\textsuperscript{189}

Separate Provision for Washing Facility

The Factories Act, 1948, stipulates that every factory shall provide adequate and suitable facilities for washing purposes of the workers. It must be separate for male and female workers\textsuperscript{190} and such facilities shall be conveniently placed. Further, the state government is empowered to prescribe standards of adequate and suitable facilities for washing.\textsuperscript{191}

Similarly, the Contract Labour (Regulation and Abolition) Central Rules, 1971, enshrines that separate and adequate washing facilities shall be provided for the use of male and female workers. Such facilities shall be conveniently accessible and kept in clean and hygienic condition.\textsuperscript{192}

With regard to separate washing facilities, the same rules also apply in case of migrant women workers covered under the

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\textsuperscript{188} \textit{Supra} note 9, at 34.
\textsuperscript{190} \textit{Supra} note 175, at Section 42(1)(b) and Section 42(1)(c).
\textsuperscript{191} \textit{Supra} note 175, at Section 42(2).
\textsuperscript{192} Rule 57 of the Contract Labour (Regulation and Abolition) Central Rules, 1971.
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Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Central Rules, 1980.\(^{193}\)

As far as Mines Act, 1952 is concerned, it empowers the Central Government to make rules requiring employers to maintain at or near the pit heads bathing places equipped with shower baths and locker rooms separately for men and women.

**Provision for Separate Toilet Facilities**

Under the Factories Act, 1948, there is an obligation upon the employer to maintain an adequate number of latrines and urinals separately for men and women in the factory. These facilities are to be conveniently situated and accessible to workers at all times while they are in the factory. Every latrine is required to be under cover and partitioned off so as to secure privacy and have a proper door and fastenings.\(^{194}\) Sweepers are required to be employed to keep latrines, urinals, and washing places clean. The standard of construction of the latrine accommodation to be provided for men and women employees is constrained in the rules framed by the concerned state government.\(^{195}\) Apart from the Factories Act, the Plantations Labour Act, 1951\(^{196}\), the Mines Act, 1952\(^{197}\), the Beedi and Cigar Workers (Conditions of Employment) Act, 1966\(^{198}\), the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Central Rules, 1980\(^{199}\), and the Building and other Construction Workers’ (Regulation of Employment and

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\(^{193}\) Rule 43 of the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Central Rules, 1980.
\(^{194}\) *Supra* note 175, at Section 19.
\(^{195}\) *Ibid*.
\(^{196}\) *Supra* note 130, at Section 9.
\(^{197}\) *Supra* note 180, at Section 20.
\(^{198}\) *Supra* note 69, at Section 12(1).
\(^{199}\) *Supra* note 193, at Rule 42.
Conditions of Service) Rules, 1998\textsuperscript{200}, also contain a provision for separate latrines and urinals for women; more or less on the same pattern of the Factories Act, 1948.

The Contract Labour (Regulation and Abolition) Central Rules, 1971, lays down that there shall be at least one latrine for every twenty-five females, provided that where the number of males or females exceeds one hundred it shall be sufficient if there is one latrine for every twenty-five males or females, as the case may be, up to the first one hundred, and one for every fifty thereafter.\textsuperscript{201}

It is significant to note that the Contract Labour (Regulation and Abolition) Central Rules, 1971\textsuperscript{202}, Inter-State Migrant (Regulation of Employment and Conditions of Service) Central Rules, 1980, and the Building and other Construction Workers’ (Regulation of Employment and Conditions of Service) Rules, 1998\textsuperscript{203}, ordain that where both male and female workers are employed, there shall be displayed outside the latrines and urinals a notice containing therein ‘For Men Only’ or ‘For Women Only’ written in the language understood by the majority of such workers. Such notice shall also bear the figure of a man or a woman, as the case may be.

Under the Factories Act the floors, portion of walls and blocks so laid or finished and the sanitary pans or latrines and urinals shall thoroughly washed and cleaned at least once in seven days with suitable detergents or disinfectants or both of the Factories Act, 1948.\textsuperscript{204}

\textsuperscript{200} Supra note 184, at Rule 243.
\textsuperscript{201} Supra note 192, at Rule 51.
\textsuperscript{202} Ibid., at Rule 53.
\textsuperscript{203} Supra note 184, at Rule 243.
\textsuperscript{204} Supra note 175. at Section 19(2)(c).
In all India study and many state level studies have noted that there is lack of separate toilets for women. Studies have repeatedly shown that even in industries employing large number of women workers there was no separate toilets and washing facilities for them.

**Rest Rooms**

The Contract Labour (Regulation and Abolition) Central Rules 1971, the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Central Rules 1980, prescribed provision for separate rest rooms for women employees whereas in the case of Factories Act, 1948, the Plantations Labour Act, 1951 and the Mines Act, 1952 do not contain the provisions for separate rest rooms.

The resting place provided to some workers in construction industry, stone quarrying and generally for any migrant workers are of low standard and it could be safely held that no such facilities were provided in these industries as well.

**Creches**

The legislations such as Factories act, 1948, Plantations Labour Act, 1951 and Contract Labour (Regulation and Abolition) Central Rules 1971, make it mandatory to have creches for the children of women employees, by specifying the minimum number of women in the establishment for providing a creche by the employers. But, in mines creches are obligatory even for a single woman.

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205 *Supra* note 9, at 35.
The study conducted by National Commission for Enterprises in the Unorganised Sector found that no creche facilities are available to women workers, particularly in construction sector. The construction sector involves a large number of women workers and a number of them are young mothers with infant children. One of the consequences of not having adequate facility were that the children were often engaged in helping the workers and overtime where inducted in the work force.208

6.13 PROVISIONS RELATING TO MATERNITY PROTECTION

The Maternity Benefit Act, 1961 aims at regulation of employment of women employees in certain establishments for certain periods before and after child birth and provision of maternity and certain other benefits and facilities to the women employees.

6.13.1 Scope and Coverage

The Act extends to the whole of India which applies to the following establishments:

- It is applicable to every establishment being a factory within the meaning of Section 2 (m) of the Factories Act, mine or plantation including any government establishment.209
- To every establishment which employs persons for exhibition of equestrian, acrobatic and other performances.

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208 Ibid., at 35.
209 Section 2(1)(a) of the Maternity Benefit Act, 1961.
• To every shop or establishment wherein ten or more persons are employed or where employed on any day of the preceding 12 months.\textsuperscript{210}

6.13.2 Qualifying Conditions

Every women employee whether employed directly or through a contractor, who has actually worked in establishment for a period of at least 80 days during the 12 months preceding the date of her expected delivery is entitled to receive maternity benefit.

6.13.3 Benefits

The Maternity Benefit Act, 1961 has been enacted to provide the following benefits:

• The Act prohibits any woman employee from working in an establishment during the six weeks after her delivery or miscarriage.\textsuperscript{211}

• The maternity benefit to which every women shall be entitled to and her employer shall be liable for, is a payment to a worker at the rate of average daily wages for the period of her actual absence immediately preceding and including the day of her delivery and for six weeks immediately following that day.\textsuperscript{212}

• A woman shall be entitled to the maternity benefit for a maximum period of 12 weeks of which not more than six weeks shall precede a date of her expected delivery.\textsuperscript{213}

\textsuperscript{210} Ibid., at Section 2 (1)(b).
\textsuperscript{211} Ibid., at Section 4.
\textsuperscript{212} Ibid., at Section 5(1).
\textsuperscript{213} Ibid., at Section 5(3).
In case of death of a woman employee, the employer shall pay the amount of maternity benefit to her nominee or legal representative as the case may be.\textsuperscript{214}

Every woman is entitled to maternity benefit shall also be entitled to receive medical bonus of Rs.3,500, if no prenatal confinement and post natal care is provided by the employer free of charge.\textsuperscript{215}

In case of miscarriage or medical termination of pregnancy a woman shall on production of the prescribed proof, be entitled to leave with wages at the rate of maternity benefit for a period of 6 weeks immediately following the day of her miscarriage or medical termination of pregnancy.\textsuperscript{216}

In case of Tubectomy operation a woman shall be entitled to leave with wages at the rate of maternity benefit for a period of two weeks immediately following the day of operation.\textsuperscript{217}

Leave for a maximum period of one month with wages at the rate of maternity benefit are allowable in case of illness arising out of pregnancy, delivery, premature birth of child, miscarriage or medical termination of pregnancy or tubectomy operation.\textsuperscript{218}

Where an employee returns to work after delivery of a child she has a right to have two breaks per day for nursing until the child attains the age of 15 months.\textsuperscript{219}

\textsuperscript{214} Ibid., at Section 7.
\textsuperscript{215} Ibid., at Section 8.
\textsuperscript{216} Ibid., at Section 9.
\textsuperscript{217} Ibid., at Section 9 A.
\textsuperscript{218} Ibid., at Section 10.
\textsuperscript{219} Ibid., at Section 11.
• The employer should not make any deduction from the normal and usual daily wages of a woman entitled to maternity benefit, nearly due to the light nature of work assigned to her or for the nursing breaks allowed to her.²²⁰

6.13.4 Administration

It is administered by the factory inspectorates of State Governments for factories, by the Coal Mines Welfare Officer for coal mines and by Director- General Mines Safety for other mines.

From the above discussion, it is concluded that the constitutional guarantees have not made women really equal to men. Women workers in the unorganised sector in different occupations such as agriculture, beedi rolling, construction etc., in substantially large numbers, but paid less than men for the same or similar work. Legislations which are providing health and welfare measures, maternity benefits etc., are not implemented effectively because women employees do not get the stipulated benefits and facilities to their desired extent. This is a sign of vulnerability and exploitation. Despite all these labour laws, a majority of women employees lack proper education and ignorance of statutory provisions, which is the thrust area affecting the development and welfare of women employees. Hence, appropriate efforts should be taken to make women employees conscious about their rights for improvement in socio economic conditions.

²²⁰ Ibid., at Section 13.