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# **MATERNITY PROTECTION UNDER LABOUR LAW** **IN INDIA: A CRITICAL ANALYSIS**

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## **ABSTRACT**

Maternity protection is a vital component of labour welfare and gender justice, ensuring that women are not compelled to choose between employment and motherhood. In India, this protection is primarily governed by the *Maternity Benefit Act, 1961*<sup>1</sup> and its *2017 Amendment*<sup>2</sup>, which expanded maternity leave and introduced additional benefits. While these provisions reflect progressive legislative intent, their effectiveness remains constrained by structural and implementation challenges.

This paper critically examines the legal framework of maternity protection in India, including its constitutional foundations under Articles 14<sup>3</sup>, 15(3)<sup>4</sup>, 21<sup>5</sup>, and 42<sup>6</sup>, which collectively emphasize equality, dignity, and social justice. It further analyses key judicial decisions that have broadened the scope of maternity rights by adopting a liberal and purposive interpretation of welfare legislation. The study also considers international standards, including those of the International Labour Organization<sup>7</sup> and CEDAW<sup>8</sup>, and undertakes a comparative analysis with countries such as Sweden, the United Kingdom, and the United States.

Despite India providing one of the longest durations of paid maternity leave globally, significant challenges persist. These include limited coverage of women in the informal sector, the employer-funded model that may lead to hiring discrimination, and weak enforcement mechanisms. Additionally, the absence of paternity leave policies continues to reinforce traditional gender roles, thereby limiting the achievement of substantive equality.

The paper concludes that while India's maternity protection laws are progressive in design, they fall short in practice due to gaps in coverage and implementation. It recommends reforms

<sup>1</sup> Maternity Benefit Act, 1961, § 5 (as amended by Act 6 of 2017).

<sup>2</sup> Maternity Benefit (Amendment) Act, 2017 (Act No. 6 of 2017).

<sup>3</sup> Constitution of India, art 14.

<sup>4</sup> Constitution of India, art 15(3).

<sup>5</sup> Constitution of India, art 21.

<sup>6</sup> Constitution of India, art 42.

<sup>7</sup> International Labour Organization (ILO).

<sup>8</sup> Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979.

such as extending benefits to informal workers, adopting a cost-sharing model involving the State, and introducing gender-neutral parental leave policies. Strengthening maternity protection is essential not only for safeguarding women's rights but also for promoting inclusive economic growth and gender equality.

## **INTRODUCTION**

Maternity protection constitutes a vital component of labour rights and social justice, aimed at safeguarding the health, dignity, and economic security of women during pregnancy and childbirth. It recognizes the biological and social realities associated with motherhood and seeks to ensure that women are not compelled to choose between their reproductive responsibilities and professional aspirations. In the absence of adequate maternity protection, women often face job insecurity, financial instability, and workplace discrimination, which can significantly hinder their participation in the labour market.

In the Indian context, maternity protection assumes even greater importance due to the relatively low rate of female labour force participation and persistent gender disparities in employment. Socio-cultural norms, combined with inadequate workplace support, often discourage women from continuing employment after childbirth. In this regard, effective maternity protection laws play a crucial role in enabling women to remain in the workforce while ensuring their well-being and that of their children.

The *Maternity Benefit Act, 1961*<sup>9</sup>, along with its significant reform through the *Maternity Benefit (Amendment) Act, 2017*<sup>10</sup>, represents a major legislative effort to strengthen maternity rights in India. The extension of paid maternity leave, recognition of adoptive and commissioning mothers, and the introduction of workplace facilities such as crèches reflect a progressive approach toward labour welfare. These developments align with broader constitutional goals of equality, dignity, and social justice.

However, despite these advancements, several challenges persist. The limited applicability of the law, particularly its exclusion of the informal sector, weak enforcement mechanisms, and the employer-funded model of benefits raise concerns about its effectiveness. Additionally, the absence of supportive measures such as paternity leave continues to reinforce gender

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<sup>9</sup> Maternity Benefit Act, 1961, § 5 (as amended by Act 6 of 2017).

<sup>10</sup> Maternity Benefit (Amendment) Act, 2017 (Act No. 6 of 2017).

inequality. These gaps highlight the need for a more inclusive and balanced framework to ensure meaningful realization of maternity rights in India.

### **STATEMENT OF PROBLEM**

Despite the existence of a comprehensive legal framework governing maternity benefits in India, a substantial gap persists between statutory provisions and their practical implementation. A significant proportion of women, particularly those engaged in the informal and unorganized sectors, remain outside the ambit of legal protection. Given that a majority of the female workforce in India is employed in such sectors, the limited applicability of maternity laws undermines their overall effectiveness and inclusivity.

Furthermore, the employer-funded model of maternity benefits places the entire financial burden on employers, which may act as a deterrent to hiring or retaining women employees, especially those of childbearing age. This often results in indirect discrimination in recruitment, promotion, and workplace opportunities. In addition, the absence of supportive policies such as paternity leave reinforces traditional gender roles by placing the primary responsibility of childcare on women, thereby affecting their career progression and long-term economic independence.

The problem is further compounded by weak enforcement mechanisms, lack of regulatory oversight, and limited awareness among women regarding their rights. As a result, many women are unable to access their legal entitlements in practice, highlighting a disconnect between legislative intent and ground realities. This situation calls for urgent reforms to ensure inclusive, effective, and equitable maternity protection.

### **REVIEW OF LITERATURE**

Barrientos and Lynch (2013)<sup>11</sup> conducted a cross-country comparison of maternity benefits and observed that, in comparison to other low- and middle-income countries such as China and South Africa, India has a relatively liberal maternity policy. However, it still lags behind developed nations like Canada and Norway, particularly in terms of comprehensive social security mechanisms and inclusivity. The study also emphasizes the importance of extending maternity benefits to women employed in the informal sector, who are often excluded from such protections.

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<sup>11</sup> Barrientos & R. Lynch, *Cross-Country Comparison of Maternity Benefits Globally* (2013).

K. Vimala and R. Renuka (2017), in their study titled “*Maternity Benefits in India and Other Countries: A Comparative Analysis*,”<sup>12</sup> compared maternity benefits across India, Australia, Canada, the European Union, and the United States. The authors found that India provides one of the longest durations of maternity leave (26 weeks) along with financial benefits. However, they noted that these benefits are largely restricted to the organized sector, limiting their overall effectiveness.

Similarly, K. Narasimha Murthy and S. K. Srivastava (2017)<sup>13</sup>, in their comparative study of India, the United States, and the United Kingdom, highlighted that while India offers longer maternity leave than countries like the United States, the implementation of such benefits remains inconsistent and often fails to meet expected standards.

The International Labour Organization (2018), in its study “*Maternity Protection at Work: A Review of National Legislation in India, Indonesia, Nepal, Sri Lanka, and Thailand*,”<sup>14</sup> found that India provides one of the most generous maternity leave periods along with cash benefits. However, the report pointed out significant challenges, including lack of awareness among women and weak enforcement of existing provisions.

Reddy and Babu (2019)<sup>15</sup>, in their comparative analysis, concluded that although India’s maternity benefit regime is relatively progressive compared to many developing countries, it is hindered by issues of accessibility, awareness, and enforcement, particularly for women in the informal sector. The authors also stressed the need to address social and cultural barriers and to promote participatory policymaking.

In a similar vein, Narayana and Ali (2019)<sup>16</sup>, while comparing India with China and Brazil, observed that although India offers longer maternity leave and monetary benefits, many women remain unaware of their entitlements, and implementation remains inadequate.

Finally, Gayathri Devi and Lokasakthi (2020)<sup>17</sup>, in their comparative analysis, examined maternity benefits in India alongside countries such as Australia, Singapore, China, and

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<sup>12</sup> K. Vimala & R. Renuka, *Maternity Benefits in India and Other Countries: A Comparative Analysis* (2017).

<sup>13</sup> K. Narasimha Murthy & S. K. Srivastava, *A Comparative Study of Maternity Leave Benefits in India, USA and UK* (2017).

<sup>14</sup> International Labour Organization (ILO), *Maternity Protection at Work: A Review of National Legislation in India, Indonesia, Nepal, Sri Lanka, and Thailand* (2018).

<sup>15</sup> N. R. Reddy & R. D. Babu, *Maternity Benefits in India: A Comparative Analysis with Other Countries* (2019).

<sup>16</sup> N. Narayana & S. M. Ali, *Maternity Benefits in India: A Comparative Analysis with China and Brazil* (2019).

<sup>17</sup> Gayathri Devi & K. Lokasakthi, *A Comparative Analysis on Maternity Benefits in India with Other Countries* (2020).

Belgium. The study concluded that India provides relatively generous paid leave; however, structural and implementation challenges continue to limit its effectiveness.

### **OBJECTIVES OF THE STUDY**

The study aims to:

1. It critically analyse the legal framework governing maternity protection in India, particularly the provisions of the *Maternity Benefit Act, 1961* and its 2017 Amendment.
2. To evaluate the effectiveness of maternity leave policies in ensuring the welfare, dignity, and economic security of working women.
3. To examine the constitutional and human rights dimensions of maternity benefits, with reference to gender equality and labour welfare principles.
4. To identify gaps and challenges in the implementation of maternity protection laws, especially concerning informal sector workers and gig economy participants.
5. To assess the impact of maternity benefit policies on employment practices, including potential hiring discrimination.
6. To suggest policy reforms for creating an inclusive, equitable, and sustainable maternity protection system in India.

### **RESEARCH QUESTIONS**

This research aims to answer the following questions.

1. What is the scope and effectiveness of the legal framework governing maternity protection in India?
2. To what extent do maternity leave policies ensure the welfare, dignity, and economic security of working women?
3. How do constitutional principles and human rights frameworks support maternity protection in India?
4. What are the key challenges in the implementation of maternity benefits, particularly in the informal and gig sectors?
5. Do maternity benefit policies contribute to hiring discrimination against women?
6. What reforms can make maternity protection more inclusive and balanced without imposing excessive burdens on employers?

## **HYPOTHESIS**

While India's maternity protection laws are progressive in design, their effectiveness is significantly limited by inadequate implementation, restricted coverage, and structural challenges, thereby failing to achieve substantive gender equality in the workforce.

## **RESEARCH METHODOLOGY**

This study adopts a doctrinal and analytical research methodology to examine the legal and policy framework of maternity protection in India. The research is primarily based on secondary sources, including statutory provisions, judicial decisions, academic literature, government reports, and publications by national and international organizations.

A detailed doctrinal analysis of the *Maternity Benefit Act, 1961*<sup>18</sup> and its 2017 Amendment<sup>19</sup> has been undertaken to evaluate the scope and effectiveness of existing legal provisions. Relevant constitutional provisions have also been analysed to understand the broader legal foundation of maternity rights. Judicial pronouncements have been critically examined to trace the evolution of maternity protection through judicial interpretation.

In addition, a comparative approach has been employed to analyse international standards and practices relating to maternity protection. Empirical data from sources such as the Periodic Labour Force Survey, along with reports by organizations like the International Labour Organization and the World Bank, have been used to assess the practical impact of maternity laws on women's workforce participation.

## **LEGAL FRAMEWORK OF MATERNITY PROTECTION IN INDIA**

The *Maternity Benefit Act, 1961* constitutes the principal legislation governing maternity protection in India. It regulates the employment of women during the period of maternity and provides for paid leave, medical benefits, and protection against dismissal during this time. The Act applies to establishments employing ten or more persons, thereby covering a significant

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<sup>18</sup> Maternity Benefit Act, 1961, § 5 (as amended by Act 6 of 2017).

<sup>19</sup> *Maternity Benefit (Amendment) Act, 2017 (Act No. 6 of 2017)*.

segment of the organized workforce. Its primary objective is to ensure that women are able to maintain economic security and employment continuity during pregnancy and childbirth.

A major development in this domain was the enactment of the *Maternity Benefit (Amendment) Act, 2017*, which introduced several progressive reforms. The most significant change was the extension of paid maternity leave from 12 weeks to 26 weeks for women with up to two surviving children, placing India among the countries with the longest duration of paid maternity leave. For women with more than two children, the leave entitlement remains 12 weeks. The amendment also expanded the scope of beneficiaries by including adoptive and commissioning mothers, who are entitled to 12 weeks of maternity leave.

Furthermore, the amendment mandates the provision of crèche facilities in establishments employing 50 or more workers, thereby facilitating childcare support and enabling women to balance professional and personal responsibilities. The inclusion of work-from-home provisions, where feasible, reflects an effort to align maternity protection with evolving workplace practices.

Despite these advancements, the Act suffers from notable limitations. Its applicability remains largely confined to the organized sector, excluding a substantial number of women employed in the informal economy. Additionally, the employer-funded model places the entire financial burden on employers, raising concerns regarding sustainability and the potential for gender-based discrimination in employment.

### **CONSTITUTIONAL PERSPECTIVE**

Maternity protection in India is firmly rooted in constitutional principles that emphasize equality, dignity, and social justice. Article 14 of the Constitution guarantees equality before the law and equal protection of the laws, forming the foundation of all rights-based claims. In the context of maternity protection, it ensures that women are not subjected to arbitrary or discriminatory treatment in employment due to pregnancy or childbirth. Complementing this, Article 15(3) empowers the State to make special provisions for women and children, thereby recognizing the need for protective discrimination to address structural inequalities and biological differences.

Article 21, which guarantees the right to life and personal liberty, has been expansively interpreted by the judiciary to include the right to live with dignity, the right to health, and reproductive autonomy. This interpretation places maternity protection within the broader framework of fundamental rights, recognizing it not merely as a welfare measure but as an essential aspect of human dignity and bodily integrity. The right to safe motherhood and access to maternity benefits thus becomes an integral part of the right to life.

Furthermore, Article 42 of the Directive Principles of State Policy directs the State to ensure just and humane working conditions and to provide maternity relief. Although Directive Principles are non-justiciable, they serve as important guidelines for legislative and policy formulation and reflect the socio-economic goals of the Constitution.

Taken together, these provisions establish a strong constitutional mandate for maternity protection. They underscore the State's obligation to create an enabling environment in which women can participate fully and equally in economic and social life without compromising their reproductive rights or well-being.

### **JUDICIAL TRENDS**

The judiciary has played a pivotal role in expanding and strengthening the scope of maternity protection in India. Through a series of landmark judgments, courts have consistently adopted a liberal and purposive interpretation of maternity laws, ensuring that their underlying objective of social welfare and gender justice is effectively realized.

In *Municipal Corporation of Delhi v. Female Workers (Muster Roll)*<sup>20</sup>, the Supreme Court extended maternity benefits to women employed on a daily wage basis, holding that such benefits are not merely statutory rights but fundamental human rights linked to dignity and social justice. This judgment marked a significant shift by broadening the applicability of maternity protection to include informal and temporary workers.

In *B. Shah v. Labour Court, Coimbatore*<sup>21</sup>, the Court emphasized that maternity benefit provisions must be interpreted liberally to advance their social purpose. It rejected a narrow

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<sup>20</sup> *Municipal Corporation of Delhi v. Female Workers (Muster Roll)*, (2000) 3 SCC 224.

<sup>21</sup> *B. Shah v. Labour Court, Coimbatore*, (1977) 4 SCC 384.

and technical interpretation that would deprive women of the full extent of their entitlements under welfare legislation.

The decision in *Neera Mathur v. Life Insurance Corporation of India*<sup>22</sup> addressed discrimination arising from pregnancy-related disclosures. The Court held that compelling a woman to disclose her pregnancy violates her right to privacy and dignity under Article 21.

Similarly, in *Air India v. Nergesh Meerza*<sup>23</sup>, the Supreme Court struck down service conditions that required termination upon pregnancy, declaring them arbitrary and violative of constitutional guarantees of equality.

In *Suchita Srivastava v. Chandigarh Administration*<sup>24</sup>, the Court further expanded the scope of maternity rights by recognizing reproductive autonomy as an integral part of personal liberty. Collectively, these decisions reflect a progressive judicial approach that aligns maternity protection with constitutional values of dignity, equality, and social justice.

### **INTERNATIONAL FRAMEWORK AND COMPARATIVE ANALYSIS**

International standards have played a significant role in shaping maternity protection policies across jurisdictions, including India. The International Labour Organization's Maternity Protection Convention (C183)<sup>25</sup> sets out minimum global standards by recommending at least 14 weeks of maternity leave, along with cash and medical benefits. Importantly, the Convention advocates for social security-based funding models, wherein the cost of maternity benefits is shared through public funds or insurance systems rather than being borne solely by employers. This approach aims to ensure sustainability and to prevent discrimination against women in employment.

Similarly, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)<sup>26</sup> emphasizes the elimination of discrimination in the workplace and recognizes maternity protection as an essential aspect of women's rights. It obligates States to provide paid

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<sup>22</sup> *Neera Mathur v. Life Insurance Corporation of India*, (1992) 1 SCC 286.

<sup>23</sup> *Air India v. Nergesh Meerza*, (1981) 4 SCC 335.

<sup>24</sup> *Suchita Srivastava v. Chandigarh Administration*, (2009) 9 SCC 1.

<sup>25</sup> International Labour Organization (ILO), *Maternity Protection Convention (No. 183)*, 2000.

<sup>26</sup> United Nations, *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*, 1979.

maternity leave and to ensure that pregnancy does not become a ground for dismissal or unequal treatment.

A comparative analysis reveals varied approaches across countries. Sweden offers one of the most progressive systems, providing extensive parental leave that can be shared between both parents and is supported by a robust social security framework. This model promotes gender equality by encouraging shared caregiving responsibilities. The United Kingdom provides statutory maternity pay along with additional employment protections, ensuring both financial support and job security. In contrast, the United States adopts a more limited approach through the Family and Medical Leave Act (FMLA)<sup>27</sup>, which guarantees unpaid leave for eligible employees.

India, by providing 26 weeks of paid maternity leave, exceeds international minimum standards in terms of duration. However, unlike many developed welfare systems, it lacks a comprehensive social security-based funding mechanism. The employer-funded model not only limits coverage but also raises concerns regarding sustainability and potential discrimination, highlighting the need for structural reforms.

### **CHALLENGES IN IMPLEMENTATION**

Despite the existence of a robust and progressive legal framework, maternity protection in India continues to face several significant challenges in its practical implementation. One of the most critical issues is the exclusion of women employed in the informal and unorganized sectors. A substantial proportion of the female workforce in India is engaged in such sectors, including domestic work, agriculture, and gig-based employment, where statutory maternity benefits are either unavailable or inadequately enforced. This limited coverage creates a significant gap between the legal framework and ground realities, thereby undermining the objective of universal maternity protection.

Another major challenge arises from the employer-funded model of maternity benefits. Since the financial responsibility for providing paid leave and related benefits rests entirely on employers, it often leads to unintended economic consequences. Employers may perceive women employees, particularly those of childbearing age, as a potential financial burden. This

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<sup>27</sup> Family and Medical Leave Act (FMLA), 1993 (United States).

perception can result in indirect discrimination in hiring, promotions, and workplace opportunities, thereby adversely affecting women's participation in the labour market.

In addition to structural issues, weak enforcement mechanisms further hinder the effective implementation of maternity laws. Regulatory oversight is often inadequate, and compliance monitoring remains limited, especially in smaller establishments. Moreover, a lack of awareness among women workers regarding their legal rights prevents them from claiming available benefits. Many employers also lack proper understanding or willingness to comply with statutory obligations.

These challenges collectively highlight a disconnect between legislative intent and practical outcomes. Addressing these issues requires not only legal reforms but also stronger enforcement, increased awareness, and inclusive policy measures that extend protection to all categories of women workers.

### **GENDER EQUITY CONCERNS**

While maternity leave policies are designed to protect women and promote their well-being during pregnancy and childbirth, they may inadvertently contribute to reinforcing existing gender inequalities in the workplace. One of the primary concerns in this regard is the absence of comprehensive paternity leave policies in India. By placing the primary responsibility of childcare solely on women, the current framework perpetuates traditional gender roles, where caregiving is viewed as a woman's duty. This not only affects women's career progression but also limits the involvement of men in early childcare, thereby reinforcing unequal domestic responsibilities.

The employer-funded nature of maternity benefits further exacerbates this issue. Since employers bear the financial cost of maternity leave, women of childbearing age may be perceived as a potential economic liability. As a result, employers may consciously or unconsciously prefer hiring male candidates or may hesitate to promote women to key positions. This form of indirect discrimination undermines the very objective of maternity protection laws, which is to ensure equality and fairness in employment.

Additionally, prolonged maternity leave without corresponding support for reintegration into the workplace can create professional disadvantages for women, including loss of

opportunities, reduced career growth, and workplace bias. This can contribute to a widening gender gap in leadership and higher-level positions.

To address these concerns, a more balanced and inclusive approach is necessary. The introduction of gender-neutral parental leave policies, including paternity leave, can help distribute caregiving responsibilities more equitably. Such measures would not only promote gender equality but also reduce the discriminatory impact of maternity benefits, fostering a more inclusive and supportive work environment.

### **IMPACT ON WORKFORCE PARTICIPATION**

Maternity protection plays a crucial role in influencing female labour force participation by enabling women to balance their reproductive responsibilities with professional commitments. Adequate maternity leave not only safeguards the health and well-being of both mother and child but also provides women with the necessary time and security to recover from childbirth and resume employment. Access to paid maternity leave, job protection, and supportive workplace policies significantly reduces the likelihood of women permanently exiting the workforce after childbirth, thereby contributing to long-term economic stability and career continuity.

Furthermore, maternity protection supports early childhood development by allowing mothers to provide essential care, including breastfeeding and postnatal attention, which are critical during the initial stages of a child's life. This, in turn, contributes to broader public health outcomes and enhances overall social welfare.

However, despite these benefits, the impact of maternity protection in India remains limited due to gaps in coverage and implementation. A substantial proportion of women are employed in the informal sector, where access to maternity benefits is either absent or inadequately enforced. As a result, many women are forced to leave their jobs during pregnancy or shortly after childbirth, contributing to India's relatively low female labour force participation rate.

Additionally, the employer-funded model and lack of supportive workplace policies may discourage employers from hiring or retaining women employees, further affecting participation levels. To address these challenges, it is essential to expand the scope of maternity protection to include informal and gig workers, strengthen enforcement mechanisms, and adopt

inclusive policy measures. Such reforms can significantly enhance women's participation in the workforce while promoting sustainable economic growth and gender equality.

### **CRITICAL EVALUATION OF THE 2017 AMENDMENT**

The *Maternity Benefit (Amendment) Act, 2017*<sup>28</sup> represents a significant and progressive advancement in strengthening maternity protection in India. The extension of paid maternity leave from 12 weeks to 26 weeks aligns with global best practices and reflects a growing recognition of the importance of maternal health, child development, and work-life balance. By providing a longer recovery and caregiving period, the amendment contributes positively to both maternal well-being and early childhood care.

However, despite its progressive intent, the amendment has been subject to considerable criticism. One of the primary concerns is the increased financial burden placed entirely on employers, particularly small and medium enterprises. This employer-funded model raises questions about sustainability and may inadvertently discourage employers from hiring or retaining women employees, especially those of childbearing age.

From a broader perspective, the amendment falls short in addressing structural gender inequalities within the workforce. While it enhances maternity benefits, it does not incorporate parallel provisions such as paternity or parental leave, thereby reinforcing the traditional notion that childcare is predominantly a woman's responsibility. Consequently, although the amendment marks a positive step, it requires complementary reforms to achieve substantive gender equality.

### **ROLE OF LABOUR CODES**

The *Code on Social Security, 2020*<sup>29</sup> represents a significant step towards the consolidation and rationalization of various social security laws in India, including provisions relating to maternity benefits. By integrating multiple legislations under a unified framework, the Code aims to simplify compliance, enhance administrative efficiency, and extend social security coverage to a broader segment of the workforce. Notably, it has the potential to include workers

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<sup>28</sup> Maternity Benefit (Amendment) Act, 2017 (Act No. 6 of 2017).

<sup>29</sup> Code on Social Security, 2020 (Act No. 36 of 2020).

from the unorganized, gig, and platform sectors, thereby addressing one of the major limitations of the existing maternity protection regime.

In theory, the Code provides an opportunity to move towards a more inclusive system of maternity protection by recognizing diverse forms of employment and enabling wider access to benefits. It also lays the groundwork for developing contributory social security mechanisms, which could reduce the exclusive financial burden on employers.

However, the effectiveness of the Code will largely depend on its implementation and enforcement. Without clear rules, adequate funding mechanisms, and strong institutional support, the intended expansion of coverage may remain largely aspirational. If existing gaps in accessibility, awareness, and enforcement are not addressed, the Code may fall short of achieving its objective of ensuring universal and equitable maternity protection.

### **FINDINGS AND OBSERVATIONS**

The study reveals that India possesses a well-developed and progressive legal framework governing maternity protection, supported by strong constitutional provisions and an expansive body of judicial interpretation. Legislative measures such as the *Maternity Benefit Act, 1961*<sup>30</sup> and its subsequent amendments demonstrate a clear commitment to safeguarding the rights, dignity, and health of working women. Judicial decisions have further reinforced these protections by adopting a liberal and purposive approach, thereby expanding the scope of maternity benefits.

However, despite this robust framework, its practical effectiveness remains limited. A major concern is the exclusion of women employed in the informal and unorganized sectors, who constitute a significant portion of the workforce but lack access to statutory benefits. Additionally, the employer-funded model places a disproportionate financial burden on employers, which may lead to indirect discrimination against women in hiring and promotion decisions.

The study also finds that gender inequality continues to persist due to structural barriers and the absence of supportive measures such as paternity leave. This reinforces traditional caregiving roles and limits women's full participation in the workforce. These findings

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<sup>30</sup> Maternity Benefit Act, 1961 (Act No. 53 of 1961).

highlight the urgent need for comprehensive and inclusive reforms to bridge the gap between legal provisions and actual implementation.

### **CONCLUSION AND SUGGESTIONS**

Maternity protection laws in India reflect a strong commitment to advancing gender justice and labour welfare. Legislative measures such as the *Maternity Benefit Act, 1961*<sup>31</sup> and its subsequent amendments demonstrate the State's intent to safeguard the health, dignity, and economic security of women during pregnancy and childbirth. However, despite this progressive framework, several practical challenges continue to undermine their effectiveness, particularly in terms of coverage, implementation, and gender equity.

To address these concerns, comprehensive reforms are necessary. First, maternity benefits must be extended to women in the informal and gig sectors through inclusive social security schemes, ensuring universal access. Second, a cost-sharing model involving both the State and employers should be adopted to reduce the financial burden on employers and minimize the risk of discrimination. Third, the introduction of paternity leave and broader parental leave policies is essential to promote shared caregiving responsibilities and achieve substantive gender equality. Finally, stronger enforcement mechanisms, improved monitoring, and increased awareness among workers are crucial for effective implementation.

In conclusion, while India's maternity protection laws are progressive in design, achieving meaningful and equitable outcomes requires a more inclusive, balanced, and effectively implemented framework.

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<sup>31</sup> Maternity Benefit Act, 1961 (Act No. 53 of 1961).

## **REFERENCES**

### **1. Statutes and Legal Framework:**

- The Maternity Benefit Act, 1961
- The Maternity Benefit (Amendment) Act, 2017
- The Code on Social Security, 2020
- The Equal Remuneration Act, 1976
- The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013
- The Constitution of India (Articles 14, 15(3), 21, and 42)

### **2. Case Laws (Judicial Precedents):**

- Municipal Corporation of Delhi v. Female Workers (Muster Roll)
- B. Shah v. Labour Court, Coimbatore
- Neera Mathur v. Life Insurance Corporation of India
- Air India v. Nergesh Meerza
- Suchita Srivastava v. Chandigarh Administration
- Relevant Supreme Court and High Court judgments interpreting maternity rights, labour welfare, and gender equality principles

### **3. International Conventions and Reports:**

- Reports and publications by the International Labour Organization (ILO) on maternity protection and labour standards
- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and related UN documents on gender equality
- World Bank reports on female labour force participation and gender inequality
- UNICEF and global policy reports on maternity leave and child welfare
- International comparative studies on parental leave policies and social security systems

### **4. Books and Academic Literature:**

- Standard labour law textbooks covering maternity benefit laws and social security legislation
- Scholarly books on gender justice, feminist legal theory, and women's rights in employment

- Publications on labour welfare, constitutional law, and human rights frameworks
- Works by prominent legal scholars analysing labour law reforms and policy implications

**5. Journal Articles and Research Papers:**

- Peer-reviewed articles on maternity protection, labour law, and gender equality
- Studies examining the economic impact of maternity leave policies on workforce participation
- Research papers analysing employer liability and labour market discrimination
- Comparative legal studies on maternity and parental leave across different jurisdictions
- Policy-oriented articles focusing on informal sector workers and social security gaps

**6. Government and Policy Reports:**

- Government of India labour reports and policy documents
- Reports from the Ministry of Labour and Employment on maternity benefits and labour reforms
- NITI Aayog and other policy think-tank publications on women's workforce participation
- Data and surveys related to employment, gender inequality, and social security schemes

**7. Online Sources and Databases:**

- Official websites of government departments and international organizations
- Legal databases providing access to statutes, case laws, and policy documents
- Online journals and repositories containing research on labour law and gender studies

**8. Studies**

- Barrientos & R. Lynch, *Cross-Country Comparison of Maternity Benefits Globally* (2013).
- K. Vimala & R. Renuka, *Maternity Benefits in India and Other Countries: A Comparative Analysis* (2017).

- K. Narasimha Murthy & S. K. Srivastava, *A Comparative Study of Maternity Leave Benefits in India, USA and UK* (2017).
- International Labour Organization (ILO), *Maternity Protection at Work: A Review of National Legislation in India, Indonesia, Nepal, Sri Lanka, and Thailand* (2018).
- N. R. Reddy & R. D. Babu, *Maternity Benefits in India: A Comparative Analysis with Other Countries* (2019).
- N. Narayana & S. M. Ali, *Maternity Benefits in India: A Comparative Analysis with China and Brazil* (2019).
- Gayathri Devi & K. Lokasakthi, *A Comparative Analysis on Maternity Benefits in India with Other Countries* (2020).

