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MATERNITY BENEFITS IN INDIA: A CRITICAL ANALYSIS OF LEGAL FRAMEWORK, IMPLEMENTATION, AND SOCIO-ECONOMIC IMPACT

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ABSTRACT

The concept of maternity benefits in Indian labor laws is one of the most important tools in ensuring women's rights in India during pregnancy, childbirth, and post-delivery recovery, which is primarily governed by the Maternity Benefit Act, 1961, which has undergone a major amendment in 2017. This comprehensive research paper explores the conceptual framework, constitutional and legislative framework, judicial developments, causative factors, significant societal and economic effects, governmental initiatives, and implementation challenges associated with maternity benefits. By examining how provisions such as 26 weeks of paid maternity leave, mandatory provision of crèches, medical bonus, and prohibition of practices of discrimination help in gender equality and improving maternal and child health, this paper also highlights how Indian laws are in conformity with international labor laws such as ILO Convention 183, with specific reference to the unorganized sector. This paper is a comprehensive attempt to explore how Indian laws have addressed this issue with specific reference to legal texts, case laws, and other relevant documents up to 2026.

Introduction

India has made significant strides toward a more progressive labour law framework that acknowledges maternity as a valuable social function. It is a function that should be supported by the government, consistent with the values of equality, dignity, and social justice articulated in the Constitution of India. With the recognition of maternity as a valuable social function, rather than merely an individual responsibility, maternity benefits are integral to ensuring the health of mothers and the ability of women to continue participating in the workforce.

The Maternity Benefit Act of 1961 provides the basis for providing maternity protection in India. The Act was developed at a time of rapid industrial growth, and brought together a

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number of previously disparate pieces of legislation into a single piece of legislation that would apply to workers across all industries. The Act provides fundamental protections for women workers, including paid maternity leave and a medical bonus, as well as protection from job loss during pregnancy, to protect the health and economic security of women workers.

One of the most significant improvements was made for employee females in the Maternity Benefits (Amendment) Act of 2017, which provides 26 weeks of paid maternity leave for an employee who has had two children. This national law standards adhere to the International Labour Organisation (ILO) recommendations for women. The amendment also creates crèches in workplaces with more than 50 employees and offers benefit options for adoptive/commissioning mothers. As such, this legislation provides greater inclusivity for working females.

The legislation protects employees through both the Constitution (Articles 14, 15 and 21) and international treaties (e.g. ILO Conventions and CEDAW). There are substantial protections provided; however, implementation of these laws does NOT occur uniformly, and it is almost nonexistent in the unorganized sector, where the majority of working females are employed.

Maternity benefits provide support for working women and serve as a way to promote economic growth, as they can motivate women to continue working outside the home while improving equality between men and women with respect to the job market. The 2020 Code of Social Security establishes new labour standards and regulations intended to update India's current laws. The maternity benefits in India are considered to be progressive; however it will ultimately be determined by many factors including the effectiveness of implementation, the amount of coverage provided and continued reform.

Meaning and Concept of Maternity Benefits

Maternity benefits are a set of legal benefits to help women employees overcome physiological, psychological, and socio-economic challenges associated with maternity, delivery, and early childcare. The concept essentially argues that maternity is not an individual burden but rather a social obligation, which necessitates interruptions in work without any loss of income or job security. In the Indian context, maternity benefits include 26 weeks of paid maternity leave, up to 8 weeks before delivery, along with a medical bonus of at least Rs. 3,500, which will rise to Rs. 20,000 in other notifications, 2 nursing breaks per day until the child is 15 months old, and

creche facilities in larger organizations.²

Concept

The concept of maternity benefits essentially contains three main components: Protection, Provision, and Promotion. This holistic perspective is informed by human rights principles, where maternity is seen as an extension of the right to health and dignity, which protects against employer practices that penalize reproductive decisions. For example, Section 5 of the Act protects against employment one month prior to delivery with a request, while Section 12 protects against termination during the benefit period, which can be enforced through penalties of up to three months' salary. The protection is extended to adoptive mothers (12 weeks from receipt of a child under 3 months) and commissioning mothers in surrogacy arrangements. Outside the statutory domain, the concept has a connection with fairness: it challenges the "motherhood penalty" in career advancement and salary, a global phenomenon where women experience a 10-20% earnings gap over their working lives after childbirth. In India, it is represented by a 10% dropout rate among mothers, making it a tool for retaining teachers. The philosophical basis is rooted in social democracy, which aligns with the vision of Article 42, which protects work conditions that are humane, developing from welfare to empowerment tools within a patriarchal work environment.

Constitutional Framework

India's Constitution incorporates maternity benefits as part of the Directive Principles of State Policy, which are non-justiciable in nature, yet morally binding on the lawmakers. Article 42 specifically instructs the state to "secure just and humane conditions of work and maternity relief." Thus, the state's obligation to protect maternity is linked with the right to labor conditions³. Article 39(d) specifically promotes equal pay for equal work, thus limiting any discrimination in wages for women post-maternity, while Article 39(a) promotes equal opportunities for a good life.

Article 21, which grants a wide range of right to life and liberty, has been judicially interpreted to protect the dignity of maternity, as in cases where informal sector workers were granted benefits. The 73rd and 74th Amendments specifically empower panchayats/municipalities to

²The Factories Act, 1948, s.48.

³Ritika Negil & Nitin Rawat, Inclusion of Motherhood: Reassessing Maternity Benefit Regime in India and Duty of the State, 3 Law Foyer Int'l J. Doctrinal Legal Res. 297 (2025)

provide maternity benefits, thus decentralizing the service delivery system. The Fundamental Rights under Articles 14, which promotes equality, and Article 15, which promotes non-discrimination, have been specifically invoked by the Supreme Court to strike down arbitrary restrictions on leave.

This system also fits in with global commitments: India ratified ILO Convention 3 in 1919 but has not ratified ILO Convention 183 in 2000, which requires alignment, although its domestic laws reflect several of its principles. State constitutions, such as Tamil Nadu's emphasis on women's well-being, reinforce central government directives. All of these provisions raise maternity from charity to constitutional right, which requires progressive legislation in response to a changing population, such as decreasing fertility rates that require more support for births.

Legislative Framework

The fulcrum is the Maternity Benefit Act, 1961, which applies to factories, mines, plantations, and shops with 10+ employees (notified establishments).

The main benefits provided are: 26 weeks' full wage maternity leave for women with 80 days' prior service (12 weeks for third+ children or adoption)⁴; medical bonus in absence of employer-provided care⁵; 6 weeks for miscarriage or medical termination⁶; 2 weeks for tubectomy⁷; and an additional month's leave for pregnancy-related illness⁸.

The 2017 Amendment has revolutionized maternity protection by including: mandatory provision of creches for establishments with 50+ employees (6+ children under 6 years with 4 daily visits)⁹; certification of proof of delivery made easier¹⁰; and work from home an option after leave.

Employers must also display abstracts, give notices to new female employees, and be subject

⁴ Maternity Benefit Act, 1961, No. 53 of 1961, § 5(2), (3), (4) (as amended by the Maternity Benefit (Amendment) Act, 2017) (India).

⁵ Id. § 8.

⁶ Id. § 9.

⁷ Id. § 9A.

⁸ Id. § 10.

⁹ Id. § 11A.

¹⁰ Id. § 6.

to penalties ranging from Rs. 5,000 to 50,000 for non-compliance.

The Employees' State Insurance Act, 1948, provides similar benefits to covered employees and also reimburses employers.

The Code on Social Security, 2020, incorporates the Act, which improves portability for gig workers/inter-state workers and incorporates ESI/PF schemes. States such as Maharashtra and Tamil Nadu have also issued notifications for the framing of the rules for the 'Creche Facilities' in 2020, with subsidies for MSMEs. The Unorganized Workers' Maternity Benefit Bill, 2023, suggests a fund for assistance for women with over 30 days of work for 26 weeks, addressing a staggering exclusion of 90%. The notifications in 2025 digitized claims for UAN portals, making it easy for workers to comply

Judicial Approach Towards Maternity Benefits

The Indian judiciary has liberally construed the Act, with a focus on substance over form.

In Municipal Corporation of Delhi v. Female Workers (2000) 3 SCC 625:

Maternity benefits should be paid to women who are on "muster roll" (daily wage basis) by the Municipal Corporation of Delhi as per the decision made in favour of these women, even though the Corporation has incorrectly stated that they are not "regular" employees. In making this decision, the Supreme Court found that the biological necessity for maternity leave and the constitutionally guaranteed right to social justice do not disappear just because an employee's contract is temporary. The Court determined that the purpose of the Maternity Benefit Act, 1961, was to provide dignity of the mother and motherhood to all women irrespective of their employment status.¹¹

K. Kalaiselvi v. Chennai port trust (2013)

The words, "except where otherwise provided by law," you can include the mother's right to maternity leave under article 21 (right to life) and also includes the need for child-rearing and bonding. The court stated that we must interpret "maternity" to include surrogate childbirth.¹²

¹¹ Municipal Corporation of Delhi v. Female Workers (2000) 3 SCC 625

¹²K. Kalaiselvi v. Chennai Port Trust, W.P. No. 8188 of 2012, (2013) 2 CTC 400 (Mad. High Ct. Mar. 4, 2013).

Ramchand Onkarlal Agarwal v. Union of India (2006)

The Supreme Court clarified that when an establishment falls under the ESI Act then the provisions of the Maternity Benefit Act will not apply to that establishment (except as provided under Sec 5-A and 5-B of the 1961 Act). The benefits provided for maternity under ESI also provide workers with the same level of protection provided by Maternity Benefit Act; therefore, all workers who are covered by ESI will have a single, unified (time-limited) set of protections for maternity benefits.¹³

Judicial trends suggest a purposive interpretation of the law, with benefits being construed as a form of social insurance rather than bounty. The law has been retrospectively applied when injustice has been suffered. The law has been extended to agency workers through the doctrine of "deemed employment." The pro-women approach has been upheld despite employer defenses, with over 500 cases being filed annual

Causes of Maternity Benefits

Maternity benefits in India are a result of the historical need to support women workers due to ill-treatment experienced at work. During the colonial period, particularly in the late 1940s, pregnant factory workers lost their jobs and were forced to work in unsafe conditions. This led to the creation of sector-specific maternity laws designed to protect women workers, which eventually consolidated into larger and more comprehensive legal frameworks over time.

In addition, socio-economic influences have contributed to the need for maternity protection. Maternal mortality rates remain a significant concern in India along with ongoing gender-based inequities; currently, there is a ~20% wage gap, between male and female workers and the Female Labor Force Participation Rate (LFPR) currently ranges from 25-30%. These factors have created an impetus for the government to introduce policy initiatives to assist working women and assist with increasing the participation of women in the workforce.

Another influence on maternity benefit policies has been Feminist movements. Grassroots organizations, such as those involved in the Shahada campaign and worldwide anti-sexual assault campaigns (#MeToo) have raised awareness about women's rights, the importance of dignity in the workplace and gender equality and have altered the manner in which policy reforms have occurred.

¹³Ramchand Onkarlal Agarwal v. Union of India, (2006) 8 SCC 776 (India).

India experienced significant economic liberalization in 1991, resulting in increased informal employment and the growing presence of women in the unorganized sector. As a result, laws in India must be updated to meet international standards, such as the International Labour Organization (minimum of 14 weeks maternity leave), and in some cases be comparable to countries like Sweden, which provides 480 days of parental leave.

The need for reproductive health and childcare support is also a function of demographic transitions such as population aging and falling rates of fertility that impact the ability of the workforce to remain stable.

Impact of Maternity Benefits

Positive Benefits

The 26 weeks of maternity leave are beneficial in improving maternal and child health. The percentage of postpartum depression is reduced by 15 to 20%, and the number of women breastfeeding is increased to approximately 60%, resulting in a decrease in infant mortality rates by nearly 10%.

Organizations that provide a maternity policy also report increased employee retention rates by 15%, which contributes to the long-term rise in labor force participation rate (LFPR) of approximately 32% by 2026. Creche facilities have also increased productivity by roughly 12% because they reduce absenteeism and create a better work/life balance.

Negative Effects

Despite these improvements, there are still some obstacles, such as a "flexibility stigma" against women who use maternity benefits; some believe that they are less committed because they take advantage of the maternity program. SMEs report costs of 2 to 5%, which negatively impacts their ability to comply fully with maternity policies. In the unorganized sector, women lack access to maternity benefits and continue to cycle through poverty because they often need to leave jobs due to lack of financial support during maternity leave.

Need for maternity benefits

Maternity benefits are critical to good labour welfare in India and are grounded in the fundamental principles of social justice, gender equity, and inclusive economic development. Adequate maternity benefits support maternal health by providing women with adequate rest,

nutrition, and medical care prior to and after childbirth, which decreases the health risk to both mother and child. Maternity benefits also provide the necessary supports for breastfeeding and bonding during the initial period after childbirth, which are both essential for an infant's physical growth and mental development. The provision of maternity benefits also assists in reducing discrimination against women in the workplace by providing women with job security and guaranteeing income stability, which encourages women to stay in the workforce and prevents the loss of skilled labour. This is especially important in India, where a large number of women are in the informal sector and do not have access to statutory protections.¹⁴

Maternity benefits also promote the constitutional principles of equality, non-discrimination, and the right to live with dignity, as well as adhering to international labour standards set out by the International Labour Organization. Maternity benefits positively impact public health, help reduce the gender gap in employment, and help achieve substantive equality, which then makes them an important tool in the process of long-term socio-economic development in India.

Government Policies and Initiatives

The 2025 rules set by the Labour Ministry make it compulsory to have e-registers and inspections via apps. PMMVY gives out nutritional benefits of Rs. 6,000 to 2 crores of women annually. SSA combines benefits to 50 crores of unorganized sector employees. Amma Creches in Tamil Nadu offer subsidies to 1,000+ facilities. Awareness generated by Beti Bachao leads to a 25% increase in claims. Foreign aid in the form of UNICEF funds pilots, while NITI Aayog measures LFPRs.

Challenges in Implementation

Non-compliance of creches in India remains very low; however, according to a survey conducted in 2013, of these businesses, fewer than 25% of them offered this service and most often cited high setup costs (between ₹5–10 lakh) as their reason for not offering commercial childcare. They also indicated that they found it difficult to allocate the necessary funding and find the physical space to implement a creche facility.

The lack of workforce compliance with childcare facilities within India is due to the fact that

¹⁴J. Vijayalakshmi & S. Arockiam, Economic Empowerment of Vulnerable Woman: Concepts of Maintenance and Maternity Benefit Laws in India, 6 Int'l J. L. Mgmt. & Human. 395 (2023)

there are very few government inspectors to enforce the law (about one government inspector to every 20,000 workers) thus giving rise to almost 40% of employees violating the law with almost no accountability.

Of the approximately 50 million women who are employed in the unorganized sector of labour within India, most do not receive maternity benefits because they do not receive formal contracts and many are unaware of their rights to maternity leave. Additionally, many women do not take maternity leave because of cultural beliefs that such behavior would imply that they are not committed to their jobs. Finally, the lack of consistency between individual state implementation of legislation, as in Kerala (very adequate reporting) and Bihar (very low reporting) only adds to the confusion of service delivery.¹⁵

The shift from analogue to digital reporting by 2025 will further limit the number of women using these services because rural women will have limited access to the technology necessary to access information, therefore limiting the uptake of this service by them.

For the purpose of improving access and compliance, the government of India has implemented multiple mechanisms through policy initiatives. The Ministry of Labour and Employment's Rules and Regulations, effective in 2025, require electronic registration (e-registers) of labour records and app-based inspections of workplaces. These mandates help increase transparency within the workforce system, while reducing opportunities for corrupt behavior by the employer.

The Pradhan Mantri Matru Vandana Yojana gives approximately 20 million (2 crores) women annually ₹6000 (\$8.00 approx.) each, for the purpose of nutritional counseling and healthcare services. The Social Security Code of 2020 aims to provide coverage for social security benefits for 500 million (50 crores) unorganised workers in India, thereby providing a greater scope of protection under social security.

Under the Amma Creches programme, there are over one thousand childcare facilities throughout Tamil Nadu assisting working women with balancing employment and childcare. In addition, the "Beti Bachao Beti Padhao" initiative has resulted in a 25% increase in the

¹⁵Rubanya Nanda & Debadatta Bose, Maternity Benefit Act and the Private Sector: Implementation Issues, 1 NUJS J. Regul. Stud. 194, 203 (Jan. 2017).

number of claims being made for maternity benefits, indicating an increase in awareness within the general population regarding the benefits available to them. UNICEF provides resources for implementation of the aforementioned plans and NITI Aayog conducts evaluation of maternity welfare initiatives to ensure proper implementation of policies.

Suggestion

While India has an adequate legal framework in place for the provision of maternity benefits across the country, there are still numerous implementation and accessibility issues, as well as a lack of inclusiveness in regard to the provision of these benefits. The extension of maternity protection to workers in the unorganised sector is critical, as this segment of the workforce contains a large portion of women's labour and is generally excluded from statutory maternity benefits. The establishment of a maternity benefits fund under the Social Security Code, 2020 could ensure all unorganised sector employees receive maternity benefits regardless of their employer's ability to provide them.

Other measures, such as offering targeted financial incentives to small and medium enterprises to support compliance with maternity leave requirements and providing crèche facilities, should also be adopted. Additionally, public-private partnerships should also be developed to share childcare infrastructure. There should also be strong institutional enforcement mechanisms, including improved inspection systems and increased use of digital monitoring tools. Importantly, the government must work to ensure that the digitalisation of maternity benefits does not act as a barrier to rural, uneducated, or otherwise marginalised women.

Finally, large-scale awareness and legal literacy campaigns must be conducted to educate women about their rights and entitlements, thereby empowering them to claim these benefits without fear of discrimination. Introducing gender-neutral policies like paternity leave can help in returning caregiving duties fairly to either side and preventing any form of bias regarding women, and approving these policies will eventually be approved after the continual evaluation based on data-driven methods implemented by various entities within India including Niti Aayog. Researching and evaluating the data after each implementation will also determine whether the new law is helping to create a situation of true equality between men and women, while also providing equal treatment and dignity for women within the workforce.

Conclusion

Maternity Benefits in India demonstrate a commitment to dignified labor and social justice through constitutional provisions, including the 42nd article of the Constitution that requires states to provide humane workplace conditions and maternity support. This framework has been strengthened over the years by both legislative reforms and court decisions to ensure that working women have some measure of protection for their health, dignity, and economic security.

Maternity benefits are a major contributor to overall population health, child development, and equity in the workplace. Maternity benefits also support women during their maternity period, thus encouraging women to participate in the workforce and contributing to gender equity, which is essential for socio-economic development on a larger scale.

The gap between legal commitments and actual execution is a major obstacle to improving the livelihoods of women workers and their families. Bridging that gap requires targeted interventions including the creation of specific funds for workers in the informal economy; providing incentives to employers to develop crèches for children of working women; improving the monitoring mechanisms (digital) needed to ensure compliance with legislation; and proactively addressing the societal stigma associated with accessing maternity benefits.

Achieving the objectives set forth in Article 42 will bring India into line with the standards established internationally by the International Labour Organization to unlock the vast potential of women's contribution to the labour force. Maternity benefits can contribute significantly to achieving the objective of a "Viksit Bharat" an India committed to inclusive development, gender equity and the sustainable advancement of the country.